

ELEVENTH DAY

(Tuesday, June 16, 1959)

The Senate met at 10:00 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present:

Aikin	Martin
Baker	Moffett
Bradshaw	Moore
Colson	Owen
Crump	Parkhouse
Dies	Phillips
Fly	Ratliff
Fuller	Reagan
Gonzalez	Roberts
Hardeman	Rogers
Hazlewood	Secrest
Herring	Smith
Hudson	Weinert
Kazen	Willis
Krueger	Wood
Lane	

A quorum was announced present.

Reverend W. H. Townsend, Chaplain, offered the invocation as follows:

"Our Father, Man that is born of a woman is of few days, and full of trouble, he cometh forth like a flower and is soon cut down. Thou are the source of our being, and the ultimate goal of our striving and when this day is done may we be able to say 'I have fought a good fight, I have kept the faith.' We pray in Christ's name. Amen."

On motion of Senator Aikin, and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

Report of Standing Committee

Senator Herring submitted the following report:

Austin, Texas,
June 15, 1959.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Claims, to whom was referred H. B. No. 12, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

HERRING, Chairman.

Senate Resolution 111

Senator Hardeman offered the following resolution:

Whereas, Residing in the rugged Big Bend Country of West Texas is a rising young author by the name of Gene Hendryx of Alpine; and

Whereas, He was born in Ochiltree County and shortly thereafter removed with his parents to Uvalde where he attended school and then joined the Marines in World War II and saw service in the Solomon Islands, Guam and historic Iwo Jima after which he was honorably discharged with total disability in 1945; and

Whereas, He attended Sul Ross College from which he was graduated with the Bachelor of Science in economics and Master of Arts in government, with honors, and belonged to Alpha Chi and Kappa Delta Pi, National honor societies; and

Whereas, He is a member and Past President of the Alpine Chamber of Commerce; is a Past President of Baptist Brotherhood and Men's Bible Class; has served two terms as County Democratic Chairman of Brewster County; is a director of the Big Bend National Park Development Committee; served as President of Sul Ross Ex-Student's Association; served as director of Texas Association of Broadcasters; was President of Big Bend Shrine Club and Most Excellent High Priest of the Royal Arch Chapter of Masons at Alpine; is a member of El Paso Consistory Scottish Rite Masons and the Alpine Commandery, York Rite Masons; is County Commissioner of Brewster County and operates Station KVLF in Alpine; and

Whereas, He has written "Semper Fi!"—a graphic novel of the gallantry of the men who moved through the jungles of the Solomon Islands to the blood-soaked beaches of Iwo Jima, with dramatic portrayals of interesting facets and dynamic episodes of Marine Corps traditions; and

Whereas, It is the desire of the Senate to recognize this distinguished young Texan as he launches his career as an author and writer, and who is a visitor in the Senate today; now, therefore, be it

Resolved, By the Senate of Texas that it extend its congratulations to Mr. Hendryx on the publication of

"Semper Fi!" and to welcome him and his party to the Capitol and the Senate Chamber today, and that a copy of this Resolution, under the Seal of the Senate, be forwarded to Mr. Hendryx by the Secretary of the Senate.

The resolution was read and was adopted.

Senator Hardeman by unanimous consent presented Mr. Hendryx and Mr. Bryan Wildenthal, president of Sul Ross College, to the Members of the Senate.

Senate Resolution 112

Senator Krueger offered the following resolution:

Whereas, The Fifteenth Session of Bluebonnet Girls State sponsored by the American Legion Auxiliary, Department of Texas, is now in session at the Texas School for the Blind, Austin, Texas; and

Whereas, The election of the State officials of Blue Bonnet Girls State was held Sunday, June 14, 1959; and

Whereas, Miss Betty Paige of Wharton, Texas, was elected State Comptroller of the Fifteenth Session of Blue Bonnet Girls State; now, therefore, be it

Resolved, By the Senate of the State of Texas that congratulations be extended to Comptroller Paige for her active interest in learning about the workings of the great State of Texas, and be it further

Resolved, That the example set by Comptroller Paige be followed as an example of interest in good government by future participants in the Blue Bonnet Girls State.

The resolution was read and was adopted.

Senate Resolution 113

Senator Aikin offered the following resolution:

Whereas, We are honored today to have as a visitor in the Senate Miss Judy Gillespie of Galveston; and

Whereas, We desire to welcome this distinguished young lady to the Capitol Building and Capital City; now, therefore, be it

Resolved, That her presence be rec-

ognized by the Senate of Texas and that she be extended the official welcome of the Senate.

The resolution was read and was adopted.

Senate Concurrent Resolution 9

Senator Fly offered the following resolution:

S. C. R. No. 9, Suspending the Joint Rules to consider H. B. No. 26 at any time.

Resolved, By the Senate of the State of Texas, the House of Representatives concurring, that the joint rules of both Houses be suspended and they are hereby suspended to allow the House and the Senate to take up House Bill 26 at any time.

The resolution was read.

Question on adoption of the resolution, yeas and nays were demanded.

The resolution was adopted by the following vote:

Yeas—18

Aikin	Lane
Baker	Moffett
Bradshaw	Parkhouse
Colson	Ratliff
Dies	Reagan
Fly	Roberts
Hardeman	Smith
Hazlewood	Weinert
Herring	Wood

Nays—12

Crump	Martin
Fuller	Owen
Gonzalez	Phillips
Hudson	Rogers
Kazen	Secrest
Krueger	Willis

Absent

Moore

House Bill 12 Ordered Not Printed

On motion of Senator Herring and by unanimous consent H. B. No. 12 was ordered not printed.

Senate Resolution 115

Senator Secrest offered the following resolution:

Whereas, We are honored today to

have as visitors in the Senate Jeanne Anne Fuller and James S. Fuller, granddaughter and grandson of our distinguished colleague, Senator Jep S. Fuller; and

Whereas, These young people have a little brother at home aged one and one-half years who could not attend today's session; and

Whereas, We desire to welcome these delightful and lovely children to the Capitol Building and Capital City; now, therefore, be it

Resolved, That their presence be recognized by the Senate of Texas and that they be extended the official welcome of the Senate.

The resolution was read and was adopted.

Senator Secrest by unanimous consent presented Jeanne Anne and James S. to the Members of the Senate.

Executive Session

On motion of Senator Reagan and by unanimous consent, the Senate agreed to hold an Executive Session at 10:28 o'clock a.m. today.

Accordingly, the President directed all those not entitled to attend the executive session of the Senate to retire from the Senate Chamber and instructed the Sergeant at-Arms to close all doors leading from the Chamber.

At the conclusion of the executive session the Secretary of the Senate informed the Journal Clerk that the Senate had confirmed the following nominations of the governor:

To be Commissioner of Labor Statistics, for a two-year term to expire January 31, 1961: J. E. (Ed) Lyles of Mart, McLennan County.

To be a member of the State Board of Public Accountancy, to fill the unexpired term of Z. Turner McGuire, deceased, term to expire September 4, 1959: Robert H. Taylor of Houston, Harris County.

To be members of the Board of Directors of the Jackson County Flood Control District, for two-year terms to expire May 20, 1961: S. B. Allen of Edna, Jackson County; Allen L. Burditt of Edna, Jackson County; C. M. Dugger, Jr., of Edna, Jackson County; Arvle Elliott of Edna, Jack-

son County; Arnold Koop of Edna, Jackson County; Chester Spencer of Ganado, Jackson County; Harrison Stafford of Edna, Jackson County.

To be Judge of the District Court of the 161st Judicial District, effective September 1, 1959: C. V. Milburn of Odessa, Ector County.

To be District Attorney of the 43rd Judicial District, effective September 1, 1959: John R. Lindsey of Jacksboro, Jack County.

In Legislative Session

The President called the Senate to order as In Legislative Session at 10:35 o'clock a.m. today.

House Concurrent Resolution 24 on Second Reading

The President laid before the Senate as pending business H. C. R. No. 24 on its second reading (The resolution having been read the second time on Thursday, June 11, 1959, and laid before the Senate on Friday, June 12, 1959, with a motion by Senator Kazen to refer to the Committee on State Affairs pending.)

Question—Shall H. C. R. No. 24 be referred to the Committee on State Affairs for further consideration?

On motion of Senator Moffett the motion by Senator Kazen was tabled.

(Senator Hardeman in the Chair.)

Senator Kazen offered the following amendment to the resolution:

Amend H. C. R. No. 24 by striking out resolving clause No. 2 and renumbering the rest accordingly.

The amendment was read.

On motion of Senator Moffett the amendment was tabled.

Record of Votes

Senators Krueger and Kazen asked to be recorded as voting "nay" on the motion to table the amendment.

The resolution was then adopted.

Record of Vote

Senator Gonzalez asked to be recorded as voting "nay" on the adoption of the above resolution.

Report of Standing Committee

Senator Hazlewood by unanimous consent submitted the following report:

Austin, Texas,
June 16, 1959.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Privileges and Elections, to whom was referred H. C. R. No. 4, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

HAZLEWOOD, Chairman.

Senate Resolution 116

Senator Hazlewood offered the following resolution:

Whereas, There is now pending in the United States House of Representatives, House Bill No. 3840, by Representative Lester Johnson, and Senate Bill No. 988, in the United States Senate, being sponsored by Senator William Proxmire of Wisconsin and Senator Hubert Humphrey of Minnesota, relating to the sale, shipment, and transportation of raw milk, fluid milk, and other milk by-products therein named; and,

Whereas, Such legislation provides, among other things, for the establishment of interstate shipping plants at which fluid raw milk could be collected for the purpose of sale and shipment in interstate commerce; and,

Whereas, Such bills pending in Congress provide for the collection, reception, shipment, and transportation under rules and regulations promulgated by the Surgeon General of the United States; and,

Whereas, Such pending legislation specifically provides that when the rules and regulations of the Surgeon General have been complied with relative to the shipment of milk, fluid as well as raw, into other states, that, and quoting the specific language of H. R. 3840:

"(1) no milk or milk product which emanates from an interstate milk plant in another State, while such plant is listed by the Surgeon General under Section 807 with respect to the milk or milk product, as the case may be, shall be subject to seizure or condemnation in, or to exclu-

sion from, a receiving State or locality, or from transportation, distribution, storage, processing, sale, or serving in such State or locality, . . ." that is to say, that any milk which meets the requirements of the Federal Milk Sanitation Code cannot be excluded from any state or fluid milk market in the United States, and that no state or local authority can prevent the entry of such milk which does qualify under the National Sanitation Code; and

Whereas, The passage of such legislation by the National Congress would thereby pre-empt this field of legislation on the subject of the shipment and importation of raw milk from state to state, and forever destroy the rights and authority of local, municipal and State health authorities in the State of Texas in their present control of sanitary standards for the production of milk; and

Whereas, The national chains of milk processors have been soliciting and encouraging the various state health departments to join in recommending the passage of this legislation, and thereby substitute reciprocity of certification from the various health departments of other states in lieu of our present milk sanitation standards; and

Whereas, Many other large dairy-producing states have already passed legislation pre-empting this field of legislation to those respective states so that such states would not be affected one way or the other by the passage of such legislation, with the result that the State of Texas, having thus far failed to finally pass any legislation on the subject, would be forever denied the right to legislate upon this important matter, if national legislation pending in the Congress passed before the State of Texas took any action with the inevitable result that the State of Texas might become the dumping ground of all the undesirable milk that such other states might choose to ship into this state; and

Whereas, It is highly important to the people of Texas that our present local, municipal and state regulatory authorities, and our present standards of milk sanitation be in all things preserved and retained, and our state's rights in that respect in all things preserved; Now, therefore, be it

Resolved by the Senate of Texas that the Texas Department of Health,

and its Milk Sanitation Division, be instructed that it is the will and desire of the Senate of Texas that no action be taken by the Texas Department of Health which would in any wise have the effect and result of surrendering or abdicating the rights and authority of local, municipal and state health departments in the supervision of production and importation of fluid milk and its by-products, and raw milk, to the end that the present authority and control over the production and sale of such milk will in all things be retained and preserved, and be it further

Resolved, That each member of the State Board of Health, the Commissioner of Health, and the Head of the Milk Sanitation Division of the State Department of Health be mailed a copy of this Resolution.

The resolution was read and was adopted.

Message from the House

Hall of the House of Representatives,
Austin, Texas,
June 16, 1959.

Hon. Ben Ramsey, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

S. B. No. 5, A bill to be entitled "An Act relating to terms of office of school trustees in certain school districts; choosing terms by lots; providing for subsequent elections and filling of vacancies; providing that provisions of Act shall be cumulative; and declaring an emergency."

S. B. No. 6, A bill to be entitled "An Act authorizing the Game and Fish Commission to transfer and convey certain lands in Hemphill County, Texas to the Adobe Walls Area Council of the Boy Scouts of America; providing that the consideration for the sale and transfer shall not be less than Twenty Thousand Dollars (\$20,000.00); and declaring an emergency."

S. B. No. 20, A bill to be entitled "An Act validating, ratifying and confirming the organization of East Keechi Creek Water Control and Improvement District of Jack, Parker and Palo Pinto Counties, and of certain acts of its Board of Directors; and declaring an emergency."

S. B. No. 8, A bill to be entitled "An Act authorizing the sum of Twenty-five Thousand Dollars (\$25,000) heretofore appropriated to the Gatesville State School for Boys in item 7 of the appropriation to said school in Chapter 385, Acts of the 55th Legislature, Regular Session, 1957 to be expended by the State Youth Council for the purposes stated in item 6 of the appropriation to the Gatesville State School for Boys in Chapter 385, Acts of the 55th Legislature, Regular Session, 1957; and declaring an emergency."

H. C. R. No. 25, Suspending the Joint Rules.

H. C. R. No. 27, Suspending Joint Rules in order to consider H. B. No. 12.

H. C. R. No. 28, Suspending the Joint Rules so that the two Houses may take up and consider House Bill No. 38 at any time.

H. C. R. No. 29, Suspending the Joint Rules in order to consider House Bill No. 80.

H. C. R. No. 30, Suspending the Joint Rules.

H. C. R. No. 31, Suspending the Joint Rules.

H. C. R. No. 32, Suspending the Joint Rules.

H. C. R. No. 33, Suspending the Joint Rules.

H. C. R. No. 34, Suspending the Joint Rules.

H. C. R. No. 35, Suspending the Joint Rules.

H. C. R. No. 36, Suspending the Joint Rules so that either House may take up and consider Senate Bill No. 19 at any time.

H. C. R. No. 37, Suspending the Joint Rules.

H. C. R. No. 38, Suspending the Joint Rules.

H. C. R. No. 39, Suspending the Joint Rules.

H. C. R. No. 40, Suspending the Joint Rules.

H. C. R. No. 41, Suspending the Joint Rules.

H. C. R. No. 42, Suspending the Joint Rules.

H. C. R. No. 43, Suspending the Joint Rules.

H. C. R. No. 44, Suspending the Joint Rules.

H. C. R. No. 45, Suspending the Joint Rules.

H. C. R. No. 46, Suspending the Joint Rules.

H. C. R. No. 48, Suspending the Joint Rules.

H. C. R. No. 49, Suspending the Joint Rules to permit the House to consider Senate Bill No. 10 at any time.

H. C. R. No. 50, Suspending the Joint Rules.

The House has concurred in Senate amendments to H. C. R. No. 17 by viva voce vote.

S. C. R. No. 4, Granting Josephine Milby Hamman permission to sue the State.

S. C. R. No. 7, Granting permission to Texas Standard Life Insurance Company of Brown County to sue the State.

H. C. R. No. 51, Suspending the Joint Rules.

The House has concurred in the Senate amendments to H. B. No. 5 by a vote of 117 Ayes and 9 Noes.

H. B. No. 66, An Act making a supplemental appropriation out of the Real Estate License Fund in the State Treasury of the State of Texas to the Texas Real Estate Commission for the balance of the fiscal year ending August 31, 1959, in the sum of Five Thousand, Nine Hundred Dollars (\$5,900); describing the purposes; and declaring an emergency.

H. B. No. 31, A bill to be entitled An Act for the protection of State and public use of the seashore bordering the Gulf of Mexico and prohibiting obstruction or interference with such uses; providing for enforcement by injunctions and penalties and other rights and procedures relating thereto; providing for severability; and providing for an emergency."

H. B. No. 44, A bill to be entitled "An Act amending House Bill No. 936, Act, Fifty-fifth Legislature, 1957, so that in the Thirty-fourth Judicial District of Texas the maximum salary of the District Attorney shall be fixed at not to exceed Twelve Thousand Dollars (\$12,000.00), and the maximum salary of the Assistants and Investigators shall not exceed Ten Thousand Dollars (\$10,000.00) for the First Assistant District Attorney and Seven Thousand Dollars (\$7,000.00) for other Assistant District Attorneys and Investigators in said District; containing a severability clause; and declaring an emergency."

H. B. No. 45, A bill to be entitled "An Act relating to the creation of a county-wide independent school district for certain counties; providing a procedure for an election; providing for partial invalidity; providing for preference of this Act over conflicting laws; and declaring an emergency."

H. B. No. 50, A bill to be entitled "An Act ratifying, confirming and validating Pecos County Water Control and Improvement District No. 2 and declaring it to be a validly existing and operating conservation and reclamation district under Section 59, Article 16, Constitution of Texas; ratifying, confirming and validating all governmental proceedings and acts of the Board of Directors, all hearings, notices, elections, bond proceedings, bonds, bond sales, tax plan, boundaries, and related matters; providing for incontestability of bonds issued; providing for method, manner and remedy for majority of bondholders where principal or interest on bonds is in default or threatened with default; providing for commissioners court to levy and fix tax rate on property in district for payment of bonds or interest; providing for county tax assessor and collector to prepare tax rolls and records, to assess and collect taxes for district; and providing for disposition of money collected; providing for related matters; providing for a severability clause; and declaring an emergency."

H. B. No. 61, A bill to be entitled "An Act to amend Section 24 of Chapter 412, Acts of the 53rd Legislature, Regular Session, 1953 (codified as Article 8280-157 of Vernon's Texas Civil Statutes), by the addition thereto of a new Section 24-A to authorize

an election within any city or cities in the District to determine whether that city or cities shall be detached from the District; prescribing the time within which a petition for said election shall be filed, requisites and filing of the petition, calling, holding and declaration of the results of the election; for order detaching territory; providing for distribution of the outstanding bonds and indebtedness of the District; repealing all laws and parts of laws in conflict with this Act; providing a severability clause; and declaring an emergency."

H. B. No. 62, A bill to be entitled "An Act amending Article 494a, Vernon's Code of Criminal Procedure, increasing attorneys fees for representation of indigents accused of felony offenses; providing that attorney fees shall be paid; providing for fees on pleas of guilty; repealing all laws or parts of laws in conflict herewith; expressly repealing Section 1a of Chapter 19, page 25, Acts of the Fifty-second Legislature known as Section 1a of Article 494a, Vernon's Code of Criminal Procedure; and declaring an emergency."

H. B. No. 52, A bill to be entitled "An Act to create the Coke County Kickapoo Water Control and Improvement District No. 1 as a conservation, reclamation and improvement district lying wholly within the borders of Coke County under the provisions of Article XVI, Section 59 of the Constitution of Texas, and particularly Chapter 3-A, Title 128 of the Revised Civil Statutes of Texas, 1925, and all amendments thereto, heretofore or hereafter enacted, prescribing the duties, powers, functions and procedure of the district; providing for the incurring of obligations and methods for the selection of the manner of paying such obligations of the district; providing for a governing body of such district; prescribing its duties; adopting certain provisions of the general law and enacting other provisions required for the functioning of the district; providing severability; and declaring an emergency."

Respectfully submitted,
DOROTHY HALLMAN,
Chief Clerk, House of Representatives

**House Concurrent Resolution 32
on Second Reading**

The Presiding Officer laid before the Senate the following resolution:

H. C. R. No. 32, Suspending Joint Rules to consider S. B. No. 11 at any time.

The resolution was read and was adopted.

**House Concurrent Resolution 27
on Second Reading**

The Presiding Officer laid before the Senate on its second reading the following resolution:

H. C. R. No. 27, Suspending Joint Rules to consider H. B. No. 12 at any time.

The resolution was read and was adopted.

House Bill on First Reading

The following bill received from the House, was read the first time and referred to the committee indicated:

H. B. No. 44, To the Committee on Counties, Cities and Towns.

Report of Standing Committee

Senator Aikin by unanimous consent submitted the following report:

Austin, Texas,
June 16, 1959.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to whom was referred H. B. No. 44, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

AIKIN, Chairman.

House Bill 44 Ordered Not Printed

On motion of Senator Owen and by unanimous consent H. B. No. 44 was ordered not printed.

**House Concurrent Resolution 30
on Second Reading**

The Presiding Officer laid before the Senate the following resolution:

H. C. R. No. 30, Suspending Joint Rules to consider H. B. No. 44 at any time.

The resolution was read and was adopted.

**House Concurrent Resolution 41
on Second Reading**

The Presiding Officer laid before the Senate the following resolution:

H. C. R. No. 41, Suspending Joint Rules to consider S. B. No. 23 at any time.

The resolution was read and was adopted.

**House Concurrent Resolution 31 on
Second Reading**

The Presiding Officer laid before the Senate the following resolution:

H. C. R. No. 31, Suspending Joint Rules to consider S. B. No. 20 and S. B. No. 15 at any time.

The resolution was read and was adopted.

**House Concurrent Resolution 35 on
Second Reading**

The Presiding Officer laid before the Senate the following resolution:

H. C. R. No. 35, Suspending Joint Rules to consider S. B. No. 12 at any time.

The resolution was read and was adopted.

**House Concurrent Resolution 36 on
Second Reading**

The Presiding Officer laid before the Senate the following resolution:

H. C. R. No. 36, Suspending Joint Rules to consider S. B. No. 19 at any time.

The resolution was read and was adopted.

House Bill on First Reading

The following bill received from the House, was read the first time and referred to the Committee indicated:

H. B. No. 61, To the Committee on Counties, Cities and Towns.

**House Concurrent Resolution 4
Ordered Not Printed**

On motion of Senator Fly and by unanimous consent H. C. R. No. 4 was ordered not printed.

**Motion to Place House Concurrent
Resolution 4 on Second Reading**

Senator Fly asked unanimous con-

sent to suspend the regular order of business to take up H. C. R. No. 4 for consideration at this time.

There was objection.

Senator Martin raised the point of order that H. C. R. 4 did not come within the Governor's call for the First Called Special Session of the 56th Legislature.

The Presiding Officer (Senator Hardeman in the Chair) sustained the point of order.

Resolution Signed

The Presiding Officer announced the signing by the President in the presence of the Senate after the caption had been read, the following enrolled resolution:

H. C. R. No. 16, Granting consent necessary to the Congress and to the President of these United States to enable the creation and establishment of a national seashore area on a portion of Padre Island.

Report of Standing Committee

Senator Aikin by unanimous consent submitted the following report:

Austin, Texas,
June 16, 1959.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your committee on Counties, Cities and Towns, to whom was referred H. B. No. 61, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

AIKIN, Chairman.

House Bill 61 Ordered Not Printed

On motion of Senator Dies and by unanimous consent H. B. No. 61 was ordered not printed.

**House Concurrent Resolution 40 on
Second Reading**

The Presiding Officer laid before the Senate the following resolution:

H. C. R. No. 40, Suspending Joint Rules to consider H. B. No. 61 at any time.

The resolution was read and was adopted.

House Bill 61 on Second Reading

Senator Dies moved that Senate Rules 13, 32 and 38 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H. B. No. 61 be placed on its second reading and passage to third reading and its third reading and final passage.

The motion prevailed by the following vote:

Yeas—29

Aikin	Lane
Baker	Martin
Bradshaw	Moffett
Colson	Owen
Crump	Phillips
Dies	Ratliff
Fly	Reagan
Fuller	Roberts
Gonzalez	Rogers
Hardeman	Secrest
Hazlewood	Smith
Herring	Weinert
Hudson	Willis
Kazen	Wood
Krueger	

Nays—2

Moore Parkhouse

The Presiding Officer then laid before the Senate on its second reading and passage to third reading the following bill:

H. B. No. 61, A bill to be entitled "An Act to amend Section 24 of Chapter 412, Acts of the 53rd Legislature, Regular Session, 1953 (codified as Article 8280-157 of Vernon's Texas Civil Statutes), by the addition thereto of a new Section 24-A to authorize an election within any city or cities in the District to determine whether that city or cities shall be detached from the District; etc.; and declaring an emergency."

The bill was read the second time.

Senator Dies offered the following amendment to the bill:

Amend H. B. 61 by striking out all below the enacting clause and substituting therefor the following:

Section 1. Section 24 of Chapter 412, Acts of the 53rd Legislature, Regular Session, 1953 (codified as Article 8280-157 of Vernon's Texas Civil Statutes), is hereby amended by addition thereto a Section 24-A, which shall read as follows:

"Section 24-A. (a) At any time not later than November 1, 1959, there may be filed with the Board of Directors of the District a petition signed by at least twenty per cent (20%) of the qualified electors of the City of Rusk, requesting an election to determine whether the petitioning city shall be detached from and no longer comprise a part of the District.

(b) The Board of Directors of the District shall order a separate election to be held in Rusk, on whose behalf a petition has been filed, date of the election to be not later than forty (40) days from date of filing of the petition. All provisions of this Act relative to elections for confirmation of the District shall also be applicable to elections under this Section 24-A. All expenses incident to the election shall be paid by the District.

"(c) The Board of Directors shall enter its order declaring the results of the election. If a majority of the votes cast in such City is in favor of detachment from the District then all territory within the limits of that city shall be detached from and shall no longer comprise any part of the District. A certified copy of the Board's order of detachment of all territory within that city shall also be recorded in the Deed Records of the county in which that city may lie.

"(d) All property within such territory which may be detached from the District as a result of an election held under the provisions of this Act shall continue to bear its pro rata part of all outstanding bonds and indebtedness of the District existing at the end of the day of the election."

Sec. 2. All laws and parts of laws in conflict with this Act are hereby repealed to the extent of conflict only.

Sec. 3. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Sec. 4. The fact that it is necessary to the planning program of the District that the territory to be served and to be taxed by the District should be determined as soon as possible creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be

suspended, and this Rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was adopted.

On motion of Senator Dies and by unanimous consent the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

Record of Vote

Senator Moore asked to be recorded as voting "Nay" on the passage of H. B. No. 61 to third reading.

House Bill 61 on Third Reading

The Constitutional Rule requiring bills to be read on three several days having been suspended the President laid H. B. No. 61 before the Senate on its third reading and final passage.

The bill was read the third time and was passed by the following vote:

Yeas—23

Aikin	Martin
Baker	Moffett
Bradshaw	Owen
Colson	Ratliff
Crump	Reagan
Dies	Roberts
Gonzalez	Rogers
Hazlewood	Secrest
Herring	Smith
Hudson	Willis
Kazen	Wood
Lane	

Nays—4

Hardeman	Moore
Krueger	Parkhouse

Absent

Fly	Phillips
Fuller	Weinert

House Concurrent Resolution 43 on Second Reading

The Presiding Officer laid before the Senate the following resolution:

H. C. R. No. 43, Suspending Joint Rules to consider H. B. No. 39 at any time.

The resolution was read and was adopted.

Presentation of Guest

Senator Lane by unanimous consent presented Mr. Oscar Jones of Longview to the Members of the Senate.

House Concurrent Resolution 46 on Second Reading

The Presiding Officer laid before the Senate the following resolution:

H. C. R. No. 46, Suspending Joint Rules to consider Senate Bill 16, and House Bill 52 at any time.

The resolution was read and was adopted.

House Bill 44 on Second Reading

Senator Owen moved that Senate Rules 13, 32 and 38 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H. B. No. 44 be placed on its second reading and passage to third reading and on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—27

Aikin	Martin
Baker	Moffett
Bradshaw	Owen
Colson	Parkhouse
Crump	Phillips
Dies	Ratliff
Gonzalez	Reagan
Hardeman	Roberts
Hazlewood	Rogers
Herring	Secrest
Hudson	Smith
Kazen	Willis
Krueger	Wood
Lane	

Absent

Fly	Moore
Fuller	Weinert

The Presiding Officer then laid before the Senate on its second reading and passage to third reading the following bill:

H. B. No. 44, A bill to be entitled "An Act amending House Bill No. 936, Act, Fifty-fifth Legislature, 1957, so that in the Thirty-fourth Judicial District of Texas the maximum salary of the District Attorney shall

be fixed at not to exceed Twelve Thousand Dollars (\$12,000.00), and the maximum salary of the Assistants and Investigators shall not exceed Ten Thousand Dollars (\$10,000.00) for the First Assistant District Attorney and Seven Thousand Dollars (\$7,000.00) for other Assistant District Attorneys and Investigators in said District, containing a severability clause; and declaring an emergency."

The bill was read the second time and was passed to third reading.

House Bill 44 on Third Reading

The Constitutional Rule requiring bills to be read on three several days having been suspended the Presiding Officer laid H. B. No. 44 before the Senate on its third reading and final passage.

The bill was read the third time and was passed by the following vote:

Yeas—29

Aikin	Martin
Baker	Moffett
Bradshaw	Owen
Colson	Parkhouse
Crump	Phillips
Dies	Ratliff
Fuller	Reagan
Gonzalez	Roberts
Hardeman	Rogers
Hazlewood	Secrest
Herring	Smith
Hudson	Weinert
Kazen	Willis
Krueger	Wood
Lane	

Absent

Fly	Moore
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House Bill on First Reading

The following bill received from the House, was read the first time and referred to the committee indicated:

H. B. No. 52, To the Committee on Counties, Cities and Towns.

Report of Standing Committee

Senator Aikin by unanimous consent submitted the following report:

Austin, Texas,
June 16, 1959.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to whom was referred H. B. No. 52, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

AIKIN, Chairman.

House Bill 52 Ordered Not Printed

On motion of Senator Owen and by unanimous consent H. B. No. 52 was ordered not printed.

House Bill 52 on Second Reading

Senator Owen moved that Senate Rules 13, 32 and 38 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H. B. No. 52 be placed on its second reading and passage to third reading and on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—31

Aikin	Martin
Baker	Moffett
Bradshaw	Moore
Colson	Owen
Crump	Parkhouse
Dies	Phillips
Fly	Ratliff
Fuller	Reagan
Gonzalez	Roberts
Hardeman	Rogers
Hazlewood	Secrest
Herring	Smith
Hudson	Weinert
Kazen	Willis
Krueger	Wood
Lane	

The Presiding Officer then laid before the Senate on its second reading and passage to third reading the following bill:

H. B. No. 52, A bill to be entitled "An Act to create the Coke County Kickapoo Water Control and Improvement District No. 1 etc., and declaring an emergency."

The bill was read the second time and was passed to third reading.

House Bill 52 on Third Reading

The Constitutional Rule requiring bills to be read on three several days having been suspended the Presiding Officer laid H. B. No. 52 before the Senate on its third reading and final passage.

The bill was read the third time and was passed.

House Concurrent Resolution 33 on Second Reading

The Presiding Officer laid before the Senate the following resolution:

H. C. R. No. 33, Suspending Joint Rules to consider H. B. 36 at any time.

The resolution was read and was adopted.

House Concurrent Resolution 39 on Second Reading

The Presiding Officer laid before the Senate the following resolution:

H. C. R. No. 39, Suspending Joint Rules to consider H. B. No. 75, H. B. No. 76 and H. B. No. 83 at any time.

The resolution was read and was adopted.

House Concurrent Resolution 29 on Second Reading

The Presiding Officer laid before the Senate the following resolution:

H. C. R. No. 29, Suspending Joint Rules to consider H. B. No. 80 at any time.

The resolution was read and was adopted.

House Bill on First Reading

The following bill received from the House, was read the first time and referred to the Committee indicated:

H. B. No. 50, To the Committee on Counties, Cities and Towns.

House Concurrent Resolution 34 on Second Reading

The Presiding Officer laid before the Senate the following resolution:

H. C. R. No. 34, Suspending Joint Rules to consider H. B. No. 50 at any time.

The resolution was read and was adopted.

House Concurrent Resolution 44 on Second Reading

The Presiding Officer laid before the Senate the following resolution:

H. C. R. No. 44, Suspending Joint Rules to consider S. B. No. 7 at any time.

The resolution was read and was adopted.

Report of Standing Committee

Senator Aikin by unanimous consent submitted the following report:

Austin, Texas,
June 16, 1959.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Counties Cities and Towns, to whom was referred H. B. No. 50, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

AIKIN, Chairman.

House Bill 50 Ordered Not Printed

On motion of Senator Owen and by unanimous consent H. B. No. 50 was ordered not printed.

House Bill 50 on Second Reading

Senator Owen moved that Senate Rules 13, 32 and 38 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H. B. No. 50 be placed on its second reading and passage to third reading and on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—31

Aikin	Martin
Baker	Moffett
Bradshaw	Moore
Colson	Owen
Crump	Parkhouse
Dies	Phillips
Fly	Ratliff
Fuller	Reagan
Gonzalez	Roberts
Hardeman	Rogers
Hazlewood	Secrest
Herring	Smith
Hudson	Weinert
Kazen	Willis
Krueger	Wood
Lane	

The Presiding Officer then laid before the Senate on its second reading and passage to third reading the following bill:

H. B. No. 50, A bill to be entitled "An Act ratifying, confirming and validating Pecos County Water Control and Improvement District No. 2; etc.; and declaring an emergency."

The bill was read the second time and was passed to third reading.

House Bill 50 on Third Reading

The Constitutional Rule requiring bills to be read on three several days having been suspended the Presiding Officer laid H. B. No. 50 before the Senate on its third reading and final passage.

The bill was read the third time and was passed.

House Bill on First Reading

The following bill received from the House was read the first time and referred to the committee indicated:

H. B. No. 31—To the Committee on State Affairs.

Motion to Suspend Senate Rule 106 on House Bill 31

Senator Baker moved to suspend Senate Rule 106 on House Bill No. 31.

The motion was lost by the following vote:

Yeas—14

Aikin	Krueger
Baker	Martin
Bradshaw	Phillips
Colson	Roberts
Dies	Rogers
Gonzalez	Smith
Kazen	Wood

Nays—16

Crump	Moore
Fly	Owen
Hardeman	Parkhouse
Hazlewood	Ratliff
Herring	Reagan
Hudson	Secrest
Lane	Weinert
Moffett	Willis

Absent

Fuller

House Concurrent Resolution 38 on Second Reading

The Presiding Officer laid before the Senate the following resolution:

H. C. R. No. 38, Suspending Joint Rules to consider H. B. No. 63 and H. B. No. 77 at any time.

The resolution was read and was adopted.

House Concurrent Resolution 48 on Second Reading

The Presiding Officer laid before the Senate the following resolution:

H. C. R. No. 48, Suspending the Joint Rules to consider S. B. No. 13 at any time.

The resolution was read.

Senator Martin offered the following amendment to the resolution:

Amend H. C. R. No. 48 by adding after S. B. 13 the words "S. B. 8."

The amendment was adopted.

The resolution as amended was then adopted.

Recess

On motion of Senator Martin the Senate at 12:13 o'clock p.m. took recess until 4:00 o'clock p.m. today.

After Recess

Senator Hardeman called the Senate to order at 4:00 o'clock p.m. today.

Message from the House

Hall of the House of Representatives
Austin, Texas,
June 16, 1959.

Hon. Ben Ramsey, President of the Senate:

Sir: I am directed by the House to inform the Senate that the House has passed the following.

H. C. R. No. 54, Instructing the Enrolling Clerk to amend the caption to House Bill No. 5 to conform to the body of the bill.

H. C. R. No. 47, Granting the Enrolling Clerk of the House permission to correct the first resolving clause of House Concurrent Resolution No. 17.

H. C. R. No. 52, Suspending the Joint Rules, so that either House may take up and consider House Bill No. 84 at any time.

H. C. R. No. 53, Suspending the Joint Rules, so that either House may at any time take up and consider Senate Bill No. 8.

S. B. No. 11, A bill to be entitled "An Act enlarging Fort Bend County Water Control and Improvement District No. 2 and defining the boundaries thereof, as enlarged; finding a benefit and public use; providing for calling and holding an assumption of indebtedness election or elections; permitting future addition or annexation of land to such district as provided by law; containing other provisions relating to the subject; providing a severability clause; and declaring an emergency."

The House has concurred in Senate amendments to H. C. R. No. 48 by viva voce vote.

The House has concurred in Senate amendments to House Bill No. 61 by vote of 138 ayes, 3 noes.

Respectfully submitted,

DOROTHY HALLMAN,
Chief Clerk, House of Representatives

House Concurrent Resolution 49 on Second Reading

The Presiding Officer laid before the Senate the following resolution:

H. C. R. No. 49, Suspending Joint Rules to consider S. B. No. 10 at any time.

The resolution was read and was adopted.

House Concurrent Resolution 47 on Second Reading

The Presiding Officer laid before the Senate the following resolution:

H. C. R. No. 47, Authorizing the Enrolling Clerk to make certain corrections in H. C. R. No. 17.

The resolution was read and was adopted.

House Concurrent Resolution 37 on Second Reading

The Presiding Officer laid before the Senate the following resolution:

H. C. R. No. 37, Suspending Joint

Rules to consider H. B. No. 62 and H. B. No. 66 at any time.

The resolution was read.

Senator Martin offered the following amendment to the resolution:

Amend H. C. R. 37 by striking the figures "62."

The amendment was adopted.

The resolution as amended was then adopted.

House Bill on First Reading

The following bill received from the House, was read the first time and referred to the committee indicated:

H. B. No. 66, To the Committee on Counties, Cities and Towns.

Report of Standing Committee

Senator Aikin by unanimous consent submitted the following report:

Austin, Texas,
June 16, 1959.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to whom was referred H. B. No. 66, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

AIKIN, Chairman.

House Bill 66 Ordered Not Printed

On motion of Senator Herring and by unanimous consent H. B. No. 66 was ordered not printed.

(Senator Aikin in the Chair.)

House Bill 66 on Second Reading

Senator Fly moved that Senate Rules 13, 32 and 38 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H. B. No. 66 be placed on its second reading and passage to third reading and on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—25

Aikin	Colson
Bradshaw	Crump

Dies	Moore
Fly	Owen
Fuller	Parkhouse
Gonzalez	Phillips
Herring	Ratliff
Hudson	Roberts
Kazen	Secrest
Krueger	Smith
Lane	Willis
Martin	Wood
Moffett	

Absent

Baker	Reagan
Hardeman	Rogers
Hazlewood	Weinert

The Presiding Officer then laid before the Senate on its second reading and passage to third reading the following bill:

H. B. No. 66, An Act making a supplemental appropriation out of the Real Estate License Fund in the State Treasury of the State of Texas to the Texas Real Estate Commission for the balance of the fiscal year ending August 31, 1959, in the sum of Five Thousand Nine Hundred Dollars (\$5,900); describing the purposes; and declaring an emergency.

The bill was read the second time and passed to third reading.

House Bill 66 on Third Reading

The Constitutional Rule requiring bills to be read on three several days having been suspended the Presiding Officer laid H. B. No. 66 before the Senate on its third reading and final passage.

The bill was read the third time and was passed by the following vote:

Yeas—27

Aikin	Martin
Bradshaw	Moffett
Colson	Moore
Crump	Owen
Dies	Parkhouse
Fly	Phillips
Fuller	Ratliff
Gonzalez	Roberts
Hazlewood	Rogers
Herring	Secrest
Hudson	Smith
Kazen	Willis
Krueger	Wood
Lane	

Absent

Baker	Reagan
Hardeman	Weinert

(Senator Fly in the Chair.)

House Concurrent Resolution 54 on Second Reading

On motion of Senator Aikin and by unanimous consent, the regular order of business was suspended to take up for consideration at this time the following resolution:

H. C. R. No. 54, Authorizing Enrolling Clerk of House to make certain corrections in H. B. No. 5.

The resolution was read and was adopted.

At Ease

On motion of Senator Aikin the Senate at 4:27 o'clock p.m. agreed to stand At Ease Subject to the Call of the Chair.

In Legislative Session

Senator Fly called the Senate to order at 4:35 o'clock P.M. today.

Bills and Resolutions Signed

The Presiding Officer announced the signing by the President in the presence of the Senate after the captions had been read, the following enrolled bills and resolutions.

S. C. R. No. 4, Granting Joseph Milby Hamman permission to sue the State of Texas.

S. C. R. No. 7, Granting Texas Standard Life Insurance Company permission to sue the State of Texas.

S. B. No. 5, A bill to be entitled "An Act relating to terms of office of school trustees in certain school districts; choosing terms by lots; providing for subsequent elections and filling of vacancies; providing that provisions of Act shall be cumulative; and declaring an emergency."

S. B. No. 6, A bill to be entitled "An Act authorizing the Game and Fish Commission to transfer and convey certain lands in Hemphill County, Texas to the Adobe Walls Area Council of the Boy Scouts of America; providing that the consideration for the sale and transfer shall not be less than Twenty Thousand Dollars (\$20,000.00); and declaring an emergency."

S. B. No. 11, A bill to be entitled "An Act enlarging Fort Bend Coun-

ty Water Control and Improvement District No. 2 and defining the boundaries thereof, as enlarged; finding a benefit and public use; providing for calling and holding an assumption of indebtedness election or elections; permitting future addition or annexation of land to such district as provided by law; etc., and declaring an emergency."

S. B. No. 20, A bill to be entitled "An Act validating, ratifying and confirming the organization of East Keechi Creek Water Control and Improvement District of Jack, Parker and Palo Pinto Counties, and of certain acts of its Board of Directors; and declaring an emergency."

At Ease

The Presiding Officer (Senator Fly in the Chair.) announced that the Senate would stand At Ease until 5:00 o'clock p.m. today.

In Legislative Session

The President called the Senate to order as in Legislative Session at 5:00 o'clock p.m. today.

Message from the House

Hall of the House of Representatives
Austin, Texas,
June 16, 1959.

Hon. Ben Ramsey, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

S. B. No. 7, A bill to be entitled "An Act to amend Section 4 of Chapter 465, Acts of Regular Session of the 52nd Legislature, 1951, and appearing as Section 4 in Article 759a of Vernon's Code of Criminal Procedure relating to the filing of Statement of Facts in criminal proceedings; and declaring an emergency."

S. B. No. 23, A bill to be entitled "An Act permitting the hunting of ducks and geese with a shotgun only during the open season therefor upon that portion of the waters of Lake Corpus Christi which lie within San Patricio County; provided, however, there shall be no hunting within certain prescribed areas and directing the Texas Game and Fish Commission to erect markers defining the limits of such restricted areas; amending Chapter 225, Acts of the 47th Legislature, Regular Session, 1941, as amended,

by adding thereto a new section to be known as Section 1b; and declaring an emergency."

S. B. No. 15, A bill to be entitled "An Act validating the organization and creation of Brazos County Water Control and Improvement District, No. 1, Big Creek, of Brazos County, Texas; validating the confirmation, election of directors and proceedings in connection therewith; validating the area and boundary line of the district; providing that the ad valorem basis or plan of taxation shall be used by the district and that it shall not be necessary to hold a hearing on the adoption of a plan of taxation; declaring that the district is essential to the accomplishment of the purposes of Section 59, Article 16, of the Constitution of the State of Texas, and declaring the district to be a governmental agency, body politic; providing that the district shall have all rights, powers, privileges and duties of a local organization within the purview of Public Law 566, 83rd Congress, Chapter 656, Second Session, H. R. 6788, as amended by Public Law 1018, 84th Congress, Chapter 1027, Second Session, H. R. 8750, including the authority to secure federal loans and enacting the applicable provisions of said Public Laws into this Act; providing that the district is subject to statutes relating to water control and improvement districts unless otherwise provided; providing for levying, assessing and collecting annual taxes to provide funds necessary for construction, acquirement, maintenance and operation of certain works, plants and facilities and also for the levy, assessment and collection of annual taxes to provide funds adequate to defray the cost of maintenance, operation and administration of the district; authorizing the issuance of bonds in the accomplishment of the district's purposes and making such bonds eligible for certain investments and to secure deposits of public funds; exempting the district's bonds from taxation; enacting a savings clause; declaring the district essential; enacting other provisions relating to the subject and purpose of this Act; and declaring an emergency."

S. B. No. 13, A bill to be entitled "An Act to authorize the creation of a Hospital District within Comanche County including only the area comprising Commissioners Precinct No. 4

of Comanche County, Texas; prescribing its rights, powers, privileges, and duties; authorizing financial support by Comanche County; providing a savings clause; and declaring an emergency."

Respectfully submitted,
DOROTHY HALLMAN,
Chief Clerk, House of Representatives

Senate Resolution 118

Senator Parkhouse offered the following resolution:

Whereas, We are honored today by the presence of Mr. and Mrs. Starkey Duncan of Nashville, Tennessee, together with their daughter, Miss Martha Duncan, and their son, Ensign Starkey Duncan, Jr., who has just completed a tour of active duty in the United States Navy; and

Whereas, these distinguished visitors are the relatives of the able correspondent for the Dallas Morning News, Honorable Dawson Duncan, who is an honored member of the Capitol press and a familiar figure in the halls of State; and

Whereas, Our visitors are former residents of Texas and are on a visit with their friends and relatives in Texas, and it is the desire of the Senate to extend to them a welcome to the Capitol; now, therefore, be it

Resolved, By the Senate of Texas that Mr. and Mrs. Duncan and their fine children be and they are hereby extended the official welcome of the Senate and its good wishes for a happy and pleasant sojourn in our midst and that a copy of this Resolution under the Seal of the Senate be forwarded to them by the Secretary of the Senate.

PARKHOUSE
HARDEMAN

The resolution was read and was adopted.

Senator Parkhouse by unanimous consent presented the guests to the Members of the Senate.

At Ease

On motion of Senator Hardeman the Senate at 5:10 o'clock p.m. agreed to stand At Ease until 7:00 o'clock p.m. today.

In Legislative Session

Senator Hardeman called the Senate to order as in Legislative Session at 7:00 o'clock p.m. today.

Message from the House

Hall of the House of Representatives
Austin, Texas,
June 16, 1959.

Hon. Ben Ramsey, President of the Senate:

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H. B. No. 73, Relating to the taking, or catching of catfish from the waters of the Trinity River in Chambers County, Texas, excluding the waters of Trinity Bay; repealing conflicting laws; and declaring an emergency.

S. B. No. 16, A bill to be entitled "An Act granting additional powers to Concho County Water Control and Improvement District Number Two in Concho County, Texas; stating the effect of this Act; authorizing a special procedure for excluding lands from the District; authorizing and providing for ad valorem taxes for works, plant and facilities, and for maintenance, operation and administration of the District, and that all taxes shall constitute a lien and not be barred by limitations; making provisions relative to the exercise of the power of eminent domain, validating the organization and confirmation of the District; providing a severability clause; and declaring an emergency."

S. B. No. 10, A bill to be entitled "An Act authorizing an emergency appropriation for the Texas Industrial Commission to permit continuation of expenditures from the Texas Industrial Commission Special Fund for the remainder of the present fiscal year beginning May 30, 1959, and ending August 31, 1959; and declaring an emergency."

H. B. No. 80, An Act authorizing cities and towns of less than five thousand (5,000) population to issue negotiable bonds to provide money to purchase fire fighting equipment; enacting other provisions related to the subject; and declaring an emergency.

S. B. No. 12, A bill to be entitled "An Act amending Article 7094, Vernon's Civil Statutes of the State of Texas, as amended, to provide that the franchise tax imposed by Chapter 3, Title 122, of Vernon's Civil Statutes of Texas shall not apply to non-

profit water supply or sewer service corporations; and declaring an emergency."

H. B. No. 76, An Act repealing Section 1 of Chapter 283, Acts of the Fifty-second Legislature, 1951, as amended, relating to fishing in Austin County; and declaring an emergency.

S. B. No. 19, An Act to amend Senate Bill No. 461 of the Regular Session of the 56th Legislature, to provide for the exchange of benches, and transfer of cases, and other proceedings in the three Courts of Domestic Relations of Harris County, Texas; providing the manner and method of such exchange or transfer and the procedure consistent therewith; and declaring an emergency.

H. B. No. 75, An Act amending Section 1 of House Bill No. 320, Acts of the Fifty-sixth Legislature, Regular Session, 1959; removing Austin County from the application of said Act; and declaring an emergency.

Respectfully submitted,

DOROTHY HALLMAN,
Chief Clerk, House of Representatives

House Bills on First Reading

The following bills received from the House were read the first time and referred to the committee indicated:

H. B. No. 75, To the Committee on Game and Fish.

H. B. No. 76, To the Committee on Game and Fish.

Reports of Standing Committee

Senator Krueger by unanimous consent submitted the following reports:
Austin, Texas,
June 16, 1959.

Hon. Ben Ramsey, President of the Senate:

Sir: We, your Committee on Game and Fish, to whom was referred H. B. No. 75, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

KRUEGER, Chairman.

Austin, Texas,
June 16, 1959.

Hon. Ben Ramsey, President of the Senate:

Sir: We, your Committee on Game

and Fish, to whom was referred H. B. No. 76, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

KRUEGER, Chairman.

House Bills 75 and 76 Ordered Not Printed

On motion of Senator Krueger and by unanimous consent H. B. Nos. 75 and 76 were ordered not printed.

House Bill 75 on Second Reading

Senator Krueger moved that Senate Rules 13, 32 and 38 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H. B. No. 75 be placed on its second reading and passage to third reading and on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—26

Aikin	Moore
Baker	Owen
Bradshaw	Parkhouse
Crump	Phillips
Fuller	Ratliff
Gonzalez	Reagan
Hardeman	Roberts
Hazlewood	Rogers
Herring	Secrest
Kazen	Smith
Krueger	Weinert
Lane	Willis
Martin	Wood

Absent

Colson	Hudson
Dies	Moffett
Fly	

The Presiding Officer then laid before the Senate on its second reading and passage to third reading the following bill:

H. B. No. 75, A bill to be entitled "An Act amending Section 1 of H. B. No. 320, Acts 56th Legislature, removing Austin County from the application of said Act; etc.; and declaring an emergency."

The bill was read the second time and was passed to third reading.

House Bill 75 on Third Reading

The Constitutional Rule requiring

bills to be read on three several days having been suspended the President laid H. B. No. 75 before the Senate on its third reading and final passage.

The bill was read the third time and was passed.

House Bill 76 on Second Reading

Senator Krueger moved that Senate Rules 13, 32 and 38 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H. B. No. 76 be placed on its second reading and passage to third reading and on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28

Aikin	Moffett
Baker	Moore
Bradshaw	Owen
Colson	Parkhouse
Crump	Phillips
Fuller	Ratliff
Gonzalez	Reagan
Hardeman	Roberts
Hazlewood	Rogers
Herring	Secrest
Kazen	Smith
Krueger	Weinert
Lane	Willis
Martin	Wood

Absent

Dies	Hudson
Fly	

The Presiding Officer then laid before the Senate on its second reading and passage to third reading the following bill:

H. B. No. 76, A bill to be entitled "An Act repealing Section 1 of Chapter 283, Acts 52nd Legislature, 1951, as amended, relating to fishing in Austin County; etc.; and declaring an emergency."

The bill was read the second time and was passed to third reading.

House Bill 76 on Third Reading

The Constitutional Rule requiring bills to be read on three several days having been suspended the Presiding Officer laid H. B. No. 76 before the Senate on its third reading and final passage.

The bill was read the third time and was passed.

House Bill on First Reading

The following bill received from the House, was read the first time and referred to the committee indicated:

H. B. No. 80, To the Committee on Counties, Cities and Towns.

Report of Standing Committee

Senator Aikin by unanimous consent submitted the following report:

Austin, Texas,
June 16, 1959.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to whom was referred H. B. No. 80, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

AIKIN, Chairman.

House Bill 80 Ordered Not Printed

On motion of Senator Willis and by unanimous consent H. B. No. 80 was ordered not printed.

House Bill 80 on Second Reading

Senator Willis moved that Senate Rules 13, 32 and 38 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H. B. No. 80 be placed on its second reading and passage to third reading and on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—30

Aikin	Martin
Baker	Moffett
Bradshaw	Moore
Colson	Owen
Crump	Parkhouse
Dies	Phillips
Fly	Ratliff
Fuller	Reagan
Gonzalez	Roberts
Hazlewood	Rogers
Herring	Secrest
Hudson	Smith
Kazen	Weinert
Krueger	Willis
Lane	Wood

Nays—1

Hardeman

The Presiding Officer then laid before the Senate on its second reading and passage to third reading the following bill:

H. B. No. 80, An Act authorizing cities and towns of less than five thousand (5,000) population to issue negotiable bonds to provide money to purchase firefighting equipment; enacting other provisions related to the subject; and declaring an emergency.

The bill was read the second time and was passed to third reading.

Record of Vote

Senator Hardeman asked to be recorded as voting "Nay" on passage of H. B. No. 80 to third reading.

House Bill 80 on Third Reading

The Constitutional Rule requiring bills to be read on three several days having been suspended the Presiding Officer laid H. B. No. 80 before the Senate on its third reading and final passage.

The bill was read the third time and was passed by the following vote:

Yeas—30

Aikin	Martin
Baker	Moffett
Bradshaw	Moore
Colson	Owen
Crump	Parkhouse
Dies	Phillips
Fly	Ratliff
Fuller	Reagan
Gonzalez	Roberts
Hazlewood	Rogers
Herring	Secrest
Hudson	Smith
Kazen	Weinert
Krueger	Willis
Lane	Wood

Nays—1

Hardeman

House Bill 12 on Second Reading

On motion of Senator Herring and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H. B. No. 12, Directing payment of certain miscellaneous claims and judgments out of the sum appropriated

for that purpose in the General Appropriation Bill for the Biennium September 1, 1959-August 31, 1961, making an appropriation for and directing payment of certain miscellaneous claims and judgments out of other funds designated herein; requiring approval of claims in the manner specified in the Act before payment is made; and declaring an emergency.

The bill was read second time and passed to third reading.

House Bill 12 on Third Reading

Senator Herring moved that the Constitutional Rule and Senate Rule 32 requiring bills to be read on three several days be suspended and that H. B. No. 12 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—31

Aikin	Martin
Baker	Moffett
Bradshaw	Moore
Colson	Owen
Crump	Parkhouse
Dies	Phillips
Fly	Ratliff
Fuller	Reagan
Gonzalez	Roberts
Hardeman	Rogers
Hazlewood	Secrest
Herring	Smith
Hudson	Weinert
Kazen	Willis
Krueger	Wood
Lane	

The Presiding Officer then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

At Ease

The Presiding Officer announced at 7:30 o'clock p.m. that the Senate would stand At Ease for fifteen minutes.

In Legislative Session

Senator Hardeman called the Senate to order as in Legislative Session at 7:45 o'clock p.m. today.

Senate Resolution 119

Senator Aikin offered the following resolution:

Whereas, We are honored today to have as a visitor in the Senate Loyd S. Sterling of Paris; and

Whereas, We desire to welcome this distinguished visitor to the Capitol Building and Capital City; now, therefore, be it

Resolved, That his presence be recognized by the Senate of Texas and that he be extended the official welcome of the Senate and privileges of the floor for today.

The resolution was read and was adopted.

Senator Aikin by unanimous consent presented Mr. Sterling to the Members of the Senate.

At Ease

On motion of Senator Aikin the Senate at 7:47 o'clock p.m. agreed to stand At Ease until 8:30 o'clock p.m.

In Legislative Session

Senator Hardeman called the Senate to order as in Legislative Session at 8:30 o'clock p.m. today.

Bills Signed

The Presiding Officer announced the signing by the President in the presence of the Senate after the caption had been read, the following enrolled bills:

S. B. No. 7, A bill to be entitled "An Act to amend Section 4 of Chapter 465, Acts of Regular Session of the 52nd Legislature, 1951, and appearing as Section 4 in Article 759a of Vernon's Code of Criminal Procedure relating to the filing of Statement of Facts in criminal proceedings; and declaring an emergency."

S. B. No. 10, A bill to be entitled "An Act authorizing an emergency appropriation for the Texas Industrial Commission to permit continuation of expenditures from the Texas Industrial Commission Special Fund for the remainder of the present fiscal year beginning May 30, 1959, and ending August 31, 1959; and declaring an emergency."

S. B. No. 12, A bill to be entitled "An Act amending Article 7094, Vernon's Civil Statutes of the State of Texas, as amended, to provide that the franchise tax imposed by Chapter 3, Title 122, of Vernon's Civil Stat-

utes of Texas shall not apply to non-profit water supply or sewer service corporations; and declaring an emergency."

S. B. No. 13, A bill to be entitled "An Act to authorize the creation of a Hospital District within Comanche County including only the area comprising Commissioners Precinct No. 4 of Comanche County, Texas; prescribing its rights, powers, privileges, and duties; authorizing financial support by Comanche County; providing a savings clause; and declaring an emergency."

S. B. No. 15, A bill to be entitled "An Act validating the organization and creation of Brazos County Water Control and Improvement District, No. 1, Big Creek, of Brazos County, Texas; validating the confirmation, election of directors and proceedings in connection therewith; validating the area and boundary line of the district; etc., and declaring an emergency."

S. B. No. 16, A bill to be entitled "An Act granting additional powers to Concho County Water Control and Improvement District Number Two in Concho County, Texas; stating the effect of this Act; authorizing a special procedure for excluding lands from the District; authorizing and providing for ad valorem taxes for works, plant and facilities, and for maintenance, operation and administration of the District, and that all taxes shall constitute a lien and not be barred by limitations; making provisions relative to the exercise of the power of eminent domain, validating the organization and confirmation of the District; providing a severability clause; and declaring an emergency."

S. B. No. 19, A bill to be entitled "An Act to amend S. B. No. 461 of the regular session of the 56th Legislature, to provide for the exchange of benches, and transfer of cases, and other proceedings in the three Courts of Domestic Relations of Harris County, Texas; providing the manner and method of such exchange or transfer and the procedure consistent therewith; and declaring an emergency."

S. B. No. 23, A bill to be entitled "An Act permitting the hunting of ducks and geese with a shotgun only during the open season therefor upon that portion of the waters of Lake

Corpus Christi which lie within San Patricio County; provided, however, there shall be no hunting within certain prescribed areas and directing the Texas Game and Fish Commission to erect markers defining the limits of such restricted areas; amending Chapter 225, Acts of the 47th Legislature, Regular Session, 1941, as amended, by adding thereto a new section to be known as Section 1b; and declaring an emergency."

At Ease

On motion of Senator Kazen the Senate at 8:32 o'clock p.m. agreed to stand At Ease until 10:00 o'clock p.m. today.

In Legislative Session

The President called the Senate to order as in Legislative Session at 10:00 o'clock p.m. today.

Message from the House

Hall of the House of Representatives
Austin, Texas,
June 16, 1959.

Hon. Ben Ramsey, President of the Senate:

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H. B. No. 36, Amending Section 5 of Chapter 427, Page 1138, Acts, Fifty-fourth Legislature, 1955, Regular Session (codified as Section 5 of Article 3883i, Vernon's Texas Civil Statutes) so as to increase the salary of the Criminal District Attorney of Tarrant County, Texas; and declaring an emergency.

H. B. No. 83, Authorizing the creation of a Public Hospital District by the Commissioners Court; providing for a petition by the qualified taxpaying voters defining said District and requesting the issuance of bonds and the levying of a tax for the payment thereof; providing for a deposit to be made for holding elections in connection therewith; providing for a hearing, before the Commissioners Court prior to said election or elections; providing the canvassing of returns of such elections or election by the Commissioners Court and orders declaring the results thereof; providing that such Public Hospital District shall be governed by a Board of five (5) Trustees who shall be elected by

the qualified voters of the District; providing for the term of office of such Trustees and the manner of their election; etc.; and declaring an emergency.

Respectfully submitted,

DOROTHY HALLMAN,
Chief Clerk, House of Representatives

Bills and Resolutions Signed

The President signed in the presence of the Senate after the captions had been read the following enrolled bills and resolutions:

H. C. R. No. 27, Suspending Joint Rules to consider H. B. No. 12 at any time.

H. C. R. No. 29, Suspending Joint Rules to consider H. B. No. 80 at any time.

H. C. R. No. 30, Suspending Joint Rules to consider H. B. No. 44 at any time.

H. C. R. No. 31, Suspending Joint Rules to consider S. B. No. 20 and S. B. No. 15 at any time.

H. C. R. No. 32, Suspending Joint Rules to consider S. B. No. 11 at any time.

H. C. R. No. 33, Suspending Joint Rules to consider H. B. No. 36 at any time.

H. C. R. No. 34, Suspending Joint Rules to consider H. B. No. 50 at any time.

H. C. R. No. 35, Suspending Joint Rules to consider S. B. No. 12 at any time.

H. C. R. No. 36, Suspending Joint Rules to consider S. B. No. 19 at any time.

H. C. R. No. 38, Suspending Joint Rules to consider H. B. No. 63 and H. B. No. 77 at any time.

H. C. R. No. 39, Suspending Joint Rules to consider H. B. Nos. 75, 76 and 83 at any time.

H. C. R. No. 40, Suspending Joint Rules to consider H. B. No. 61 at any time.

H. C. R. No. 41, Suspending Joint Rules to consider S. B. No. 23 at any time.

H. C. R. No. 43, Suspending Joint

Rules to consider H. B. No. 39 at any time.

H. C. R. No. 44, Suspending Joint Rules to consider S. B. No. 7 at any time.

H. C. R. No. 46, Suspending Joint Rules to consider S. B. No. 16 and H. B. No. 52 at any time.

H. C. R. No. 48, Suspending Joint Rules to consider S. B. No. 13 at any time.

H. C. R. No. 49, Suspending Joint Rules to consider S. B. No. 10 at any time.

H. C. R. No. 17, Granting permission to John I. Cave and A. B. Cave to sue the State of Texas.

H. C. R. No. 24, Relating to the shortage of domestic labor required to perform the work incident to agricultural production and recruitment of labor.

H. C. R. No. 54, Instructing Enrolling Clerk to make certain corrections in H. B. No. 5.

H. C. R. No. 47, Instructing Enrolling Clerk to make certain corrections in H. C. R. No. 17.

H. B. No. 5, A bill to be entitled "An Act implementing the provisions of Section 49a of Article III of the Constitution of Texas; stating the information the Comptroller is required to furnish the Legislature and the Governor; etc., and declaring an emergency."

H. B. No. 50, A bill to be entitled "An Act ratifying the Pecos County Water Control and Improvement District No. 2; etc., and declaring an emergency."

H. B. No. 52, A bill to be entitled "An Act to create the Coke County Kickapoo Water Control and Improvement District No. 1; etc., and declaring an emergency."

H. B. No. 61, A bill to be entitled "An Act to amend Section 24 of Chapter 412, Acts of the 53rd Legislature, Regular Session, 1953 (codified as Article 8280-157 of Vernon's Texas Civil Statutes), by the addition thereto of a new Section 24-A to authorize an election within any city or cities in the District to determine whether that city or cities shall be detached from the District; etc.; and declaring an emergency."

H. B. No. 44, A bill to be entitled "An Act amending House Bill No. 936, Act, Fifty-fifth Legislature, 1957, so that in the Thirty-fourth Judicial District of Texas the maximum salary of the District Attorney shall be fixed at not to exceed Twelve Thousand Dollars (\$12,000.00) and the maximum salary of the Assistants and Investigators shall not exceed Ten Thousand (\$10,000.00) for the First Assistant District Attorney and Seven Thousand Dollars (\$7,000.00) for other Assistant District Attorneys and Investigators in said District, containing a severability clause, and declaring an emergency."

Senate Resolution 120

Senator Hazlewood offered the following resolution:

Whereas, We have been honored during the month of June, 1959, to have as visitors in the Texas Senate, Dale Willis and Dina Willis, the charming and lovely 7 and 9 year old daughters of our colleague from Tarrant County, Senator Doyle Willis; and

Whereas, Dale and Dina have endeared themselves to the Senate by their gracious manners and cheery smiles; now, therefore, be it

Resolved, That the Texas Senate extend its official welcome to these little ladies with its added wishes for their future success and happiness.

The resolution was read and was adopted.

House Bills on First Reading

The following bills received from the House, were read the first time and referred to the committee indicated:

H. B. No. 36, To the Committee on Counties, Cities and Towns.

H. B. No. 83, To the Committee on Counties, Cities and Towns.

Report of Standing Committee

Senator Aikin by unanimous consent submitted the following report:

Austin, Texas,
June 16, 1959.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to whom was

referred H. B. No. 36, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

AIKIN, Chairman.

House Bill 36 Ordered Not Printed

On motion of Senator Willis and by unanimous consent H. B. No. 36 was ordered not printed.

House Bill 36 on Second Reading

Senator Willis moved that Senate Rules 13, 32 and 38 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H. B. No. 36 be placed on its second reading and passage to third reading and on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—27

Aikin	Martin
Baker	Moffett
Bradshaw	Owen
Colson	Phillips
Crump	Ratliff
Dies	Reagan
Fuller	Roberts
Gonzalez	Rogers
Hazlewood	Secrest
Herring	Smith
Hudson	Weinert
Kazen	Willis
Krueger	Wood
Lane	

Absent

Fly	Moore
Hardeman	Parkhouse

The President then laid before the Senate on its second reading and passage to third reading the following bill:

H. B. No. 36, A bill to be entitled "An Act amending Section 5 of Chapter 427, Page 1138, Acts, Fifty-fourth

Legislature, 1955, Regular Session (codified as Section 5 of Article 3883i, Vernon's Texas Civil Statutes) so as to increase the salary of the Criminal District Attorney of Tarrant County, Texas; etc., and declaring an emergency."

The bill was read the second time and was passed to third reading.

House Bill 36 on Third Reading

The Constitutional Rule requiring bills to be read on three several days having been suspended the President laid H. B. No. 36 before the Senate on its third reading and final passage.

The bill was read the third time and was passed.

Conference Committee Report on House Bill 7

Senator Hardeman submitted the following Conference Committee Report on H. B. No. 7:

Austin, Texas,
June 16, 1959.

Honorable Ben Ramsey, President of the Senate.

Honorable Waggoner Carr, Speaker of the House of Representatives.

Sirs: We, your Conference Committee appointed to adjust the differences between the House and Senate on H. B. 7, have met and beg leave to recommend that H. B. 7 be passed in the form attached hereto.

Respectfully submitted,

WEINERT
HARDEMAN
PHILLIPS
REAGAN
HERRING

On the part of the Senate.

RAMSEY
COOK
OLIVER

On the part of the House.

FACT SHEET

Estimated Increased Biennial Revenues to Be Derived from
Conference Committee Report on H. B. 7

Subject	Biennial Allocation and Yield				
	Highway Fund	Available School Fund	Omnibus Tax Clearance Fund	General Revenue Fund	Total
Article I					
Natural Gas Production:	\$	\$	\$	\$	\$
Increase rate from					
7% to 8%.....		3,375,000	10,125,000		13,500,000
Article II					
Motor Vehicle Sales:					
Increase rate from					
1.1% to 1.5%.....		4,125,000	12,375,000		16,500,000
Article 3					
Cigarettes: Increase rate from					
5c to 8c per pack.....				63,000,000	63,000,000
Article IV					
Utilities: Increase present					
tax by 20%.....		775,000	2,325,000		3,100,000
Article V					
Distilled Spirits: Increase rate					
from \$1.408 to \$1.68					
per gallon.....		1,199,000	3,597,000		4,796,000
Wines: Increase present					
rates 20%.....		112,500	337,500		450,000
Article VI					
Tobacco Products: New tax on					
cigars, smoking and chew-					
ing tobacco.....				23,600,000	23,600,000
Article VII					
Franchise Tax: Rates: Up to					
4-31-60 increase 75c;					
6-1-60 to 4-31-62 increase 50c;					
after 4-31-62, no increase....				32,500,000	32,500,000
Article VIII					
Theatre Admissions:					
Reduction in rates.....		—30,000			—120,000 ¹
Theatre License Abolished.....		—15,000		—45,000	—60,000
Article IX					
Special Fuels:					
Better enforcement.....	900,000	300,000			1,200,000
Article X					
Boats and Boat Motors					
Excise Tax.....				2,600,000	2,600,000
Article XI					
Radios, Televisions, Phono-					
graphs and Component					
Parts Excise Tax.....		1,750,000	5,250,000		7,000,000
Article XII					
Operator's and Chauffeur's					
License (\$1.00 per year					
increase).....				9,000,000	9,000,000
Article XIII					
Allocation:					
Article XIV					
General Provisions					
and Repealer.					
Total Revenues to					
Be Derived.....	\$ 900,000	\$ 11,591,500	\$ 34,009,500	\$ 130,655,000	\$ 177,066,000

¹The admissions tax is allocated 1-1/2 to the Available School Fund and the Old Age Assistance Fund. This latter Fund would lose approximately \$90,000 in revenue under the proposed reduction.

(Note: "Bookkeeping Bill" yield . . . \$28,000,000).

CONFERENCE REPORT ON HOUSE BILL 7

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H. B. No. 7,

A BILL
To Be Entitled

"An Act providing additional revenue for the support of State government; amending Subsection (1) of Section 1, of Main Section 1 of Chapter 269, Acts of the Forty-ninth Legislature, Regular Session, 1945, as amended (compiled as Section 1(1) of Article 7047b, Vernon's Annotated Civil Statutes of Texas), relating to a tax on the production of natural gas; amending Sections 1, 2, 6, Subsection (b) of Section 3 and Section 5a of Article VI of Chapter 184, Acts of the Forty-seventh Legislature, Regular Session, 1941, as amended (compiled as Sections 1, 2, 6, Subsection (b) of Section 3, and Section 5a of Article 7047k, Vernon's Annotated Civil Statutes of Texas), relating to a tax on the sale of motor vehicles; amending Subsection (a) of Section 1 of Chapter 241, Acts of the Forty-fourth Legislature, 1935, as amended, and Subsection (a) of Section 2½ of Chapter 241, Acts of the Forty-fourth Legislature, 1935, as added by Chapter 404, Acts of the Fifty-fourth Legislature, Regular Session, 1955, relating to an additional tax on cigarettes; adding a new Section 3C to Chapter 241, Acts of the Forty-fourth Legislature, Regular Session, 1935, as amended, relating to payment for stamps and meter settings in connection with the cigarette tax; amending Subsection (b) of Section 3 of Chapter 241, Acts of the Forty-fourth

Legislature, Regular Session, 1935, as amended, relating to cigarette tax stamp discounts; amending Article 7060 of the Revised Civil Statutes of Texas, 1925, as amended, relating to an occupation tax on the gross receipts of gas, electric light, power or water works; repealing Section 1 of Article V of Chapter 2, Acts of the Fifty-first Legislature, First Called Session, 1950 (compiled as Article 7060½ of Vernon's Annotated Civil Statutes of Texas); amending Subsection (a) of Article 7059 of the Revised Civil Statutes of Texas, 1925, as amended, relating to an occupation tax on the gross receipts of telegraph companies; amending Section 21 of Article 1, Chapter 467, Acts of the Forty-fourth Legislature, Second Called Session, 1935, as amended, relating to a tax on distilled spirits and wine; levying a tax on the first sale, distribution, use or consumption within this State of cigars and tobacco products and providing for administration, enforcement, penalties and allocation for administration and enforcement; amending Chapter III, Title 122, Revised Civil Statutes of Texas, 1925, as amended, by adding thereto two new articles to be known respectively as Articles 7084a and 7084b levying an additional franchise tax from and after the effective date of this Act through April 30, 1962; amending subsection 3 of Section 6 of Article III, Chapter 495, Acts of the Forty-fourth Legislature, Third Called Session, 1936, as amended (compiled

as Article 7047a-19, Paragraph (3) of Vernon's Annotated Civil Statutes of Texas) relating to a tax on entertainment admissions; repealing Chapter 35, Acts of the Forty-first Legislature, 5th Called Session, 1930, compiled as Section 22a of Article 7047, Vernon's Annotated Civil Statutes of Texas; levying an excise tax upon the use of special fuels for the propulsion of motor vehicles upon the public highways of this State, providing for administration, enforcement, and penalties for violations; providing for refunds in certain cases, and making allocations; amending and renumbering Section 14a of Article XVII of Chapter 184, Acts of the Forty-seventh Legislature, Regular Session, 1941, as added by Section 3 of Article II of Chapter 404, Acts of the Fifty-fourth Legislature, Regular Session, 1955 (compiled as Article 7065b-14a of Vernon's Annotated Civil Statutes of Texas), relating to refunds of the motor fuel tax to certain transit companies; amending Section 26 and Section 27 of Article XVII of Chapter 184, Acts of the Forty-seventh Legislature, Regular Session, 1941, as added by Section 3 of Article II of Chapter 404, Acts of the Fifty-fourth Legislature, 1955, relating to the administration of the motor fuel tax; levying an excise tax upon the sale, distribution or use of boats and/or boat motors and providing for the administration, enforcement, penalties, and allocations for enforcement and administration thereof; amending Section 1, Subsections (a) and (b) of Section 2, Section 3, Section 5, Section 6, Section 8, Section 10, Section 12, Section 13, and Section 14 of Chapter 522, Acts of the Fifty-fourth Legislature, Regular Session, 1955, as amended, relating to the tax on radios, television, phonographs and component parts thereof; amending Section 19 and Section 15, respectively, of Chapter 173, Acts of the Forty-seventh Legislature, Regular Session, 1941, as amended, relating to drivers' license fees; providing for allocations of revenue; providing a savings clause; prohibiting the levying of certain occupation taxes by cities, counties, or other political subdivisions unless authorized by the Legislature; providing a severability clause; providing for appropriations by the Legislature of funds allocated for administration; repealing Subsections (b),

(c), (d) and (h) of Section 1, and Section 14 of Article XVII of Chapter 184, Acts of the Forty-seventh Legislature, Regular Session, 1941, as amended (compiled respectively as Subsections (b), (c), (d), and (h) of Article 7065b-1 and as Article 7065b-14 of Vernon's Annotated Civil Statutes of Texas) and all laws or parts of laws in conflict; providing certain savings provisions; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE I

NATURAL GAS PRODUCTION TAX

Section 1.01. Subsection or paragraph (1) of Section 1, of Main Section 1 of House Bill No. 628, Chapter 269, Acts, Forty-ninth Legislature, Regular Session, 1945, as last amended by Section 1 of Article I of House Bill No. 15, Chapter 2, Acts, Fifty-third Legislature, First Called Session, 1954, which is compiled as Section 1 (1) of Article 7047b, Vernon's Annotated Civil Statutes of Texas is hereby amended so as to hereafter read as follows:

"Section 1 (1). There is hereby levied an occupation tax on the business or occupation of producing gas within this State, computed as follows:

A tax shall be paid by each producer on the amount of gas produced and saved within this State equivalent to eight per cent (8%) of the market value thereof as and when produced; provided, however, that the amount of the tax on sweet and sour gas shall never be less than 121/1500 of One Cent (1c) per one thousand (1,000) cubic feet.

In calculating the tax herein levied, there shall be excluded: (1) gas injected into the earth in this State, unless sold for such purposes; (2) gas produced from oil wells with oil and lawfully vented or flared; and (3) gas used for lifting oil, unless sold for such purposes."

ARTICLE II

MOTOR VEHICLE SALES TAX

Section 2.01. Section 1 of Article VI of House Bill No. 8, Acts of the Forty-seventh Legislature, Regular Session, 1941, Chapter 184, as last amended by Section 1 of Section VII

of House Bill No. 285, Acts of the Fifty-second Legislature, Regular Session, 1951, Chapter 402, compiled as Section 1 of Article 7047k of Vernon's Annotated Civil Statutes of Texas, is amended so as to hereafter read as follows:

"Section 1. (a) There is hereby levied a tax upon every retail sale of every motor vehicle sold in this State, such tax to be equal to 1.5% of the total consideration paid or to be paid to the seller by the buyer, which consideration shall include the amount paid or to be paid for said motor vehicle and all accessories attached thereto at the time of the sale, whether such consideration be in the nature of cash, credit, or exchange of other property, or a combination of these. In the event the consideration received by the seller includes any tax imposed by the Federal Government, then such Federal tax shall be deducted from such consideration for the purpose of computing the amount of tax levied by this Article upon such retail sale.

"(b) In all cases of retail sales involving the exchange of motor vehicles, the party transferring the title to the motor vehicle having the greater value shall be considered the seller, and no tax is imposed upon the transfer of a motor vehicle traded in upon the purchase of some other motor vehicle. Where such a retail sale involves an even exchange, each of the two (2) parties to the transaction shall pay a tax of Five Dollars (\$5). Where a person makes a gift of a motor vehicle, the donee shall pay a tax of Ten Dollars (\$10)."

Sec. 2.02. Section 2 of Article VI of House Bill No. 8, Acts of the Forty-seventh Legislature, Regular Session, 1941, Chapter 184, as last amended by Section 2 of Section VII of House Bill No. 285, Acts of the Fifty-second Legislature, Regular Session, 1951, Chapter 402, which is compiled as Section 2 of Article 7047k of Vernon's Annotated Civil Statutes of Texas, is amended so as to hereafter read as follows:

"Section 2. (a) There is hereby levied a use tax upon every motor vehicle purchased at retail sale outside of this State and brought into this State for use upon the public highways thereof by a resident of this State or by a person, firm or corporation domiciled or doing business in this State. Such tax shall be equal to

1.5% of the total consideration paid or to be paid for said vehicle at said retail sale. The tax shall be the obligation of and be paid by the person, firm, or corporation operating said motor vehicle upon the public highways of this State.

"(b) When a person makes application for the initial certificate of title in this State on a particular motor vehicle, he shall pay a use tax on that motor vehicle in the sum of Fifteen Dollars (\$15). No certificate of title or motor vehicle registration for such motor vehicle shall be issued until the use tax imposed by this Subsection has been paid. However, a person is not liable for the tax imposed by this Subsection if the sales or use tax imposed by any other provision of this Act has been previously paid upon such motor vehicle. It is the purpose of this Subsection to impose a use tax upon motor vehicles brought into this State by new residents of this State."

Sec. 2.03. Section 6 of Article VI of House Bill No. 8, Acts of the Forty-seventh Legislature, Regular Session, 1941, Chapter 184, as last amended by Section 5 of Section VII of House Bill No. 285, Acts of the Fifty-second Legislature, Regular Session, 1951, Chapter 402, compiled as Section 6 of Article 7047k of Vernon's Annotated Civil Statutes of Texas, is hereby amended to read hereafter as follows:

"Section 6. The Tax Assessor and Collector shall issue a receipt to the person paying taxes prescribed hereunder, making two (2) duplicate copies of said receipt, the form of said receipt to be prescribed by the Comptroller of Public Accounts. On the last day of each month, the Tax Collector shall forward ninety-six per cent (96%) of the money collected hereunder during said month to the Comptroller of Public Accounts, together with one duplicate copy of each of the receipts issued by him to persons paying the tax to the Collector. He shall retain the other duplicate receipt as a permanent record in his office together with four per cent (4%) of the money collected as fees of office, or paid into the officers salary fund of the county as provided by general law."

Sec. 2.04. Subsection (b) of Section 3 of Article VI, House Bill No. 8, Acts of the Forty-seventh Legislature, Regular Session, 1941, Chapter

184, which is compiled as Subsection (b) of Section 3 of Article 7047k of Vernon's Annotated Civil Statutes of Texas, is amended so as to hereafter read as follows:

"(b) The term 'retail sale' or 'retail sales' as herein used shall include all sales of motor vehicles except those whereby the purchaser acquires a motor vehicle for the exclusive purpose of resale and not for use other than to demonstrate it to a prospective purchaser."

Sec. 2.05. Section 5a, Acts of the Forty-seventh Legislature, Regular Session, 1941, Chapter 184, Article VI, as last amended by Section 4 of Section VII of House Bill No. 285, Acts of the Fifty-second Legislature, Regular Session, 1951, Chapter 402, which is compiled as Section 5a of Article 7047k of Vernon's Annotated Civil Statutes of Texas, is amended so as to hereafter read as follows:

"Section 5a. The purchaser and seller shall make a joint affidavit setting forth the then value in dollars of the total consideration, whether in money or other things of value, received or to be received by the seller or his nominee in a retail sale. Where a transfer of title to a motor vehicle is made either as the result of an even exchange or of a gift, the two principal parties to such a transaction shall make a joint affidavit setting forth the facts describing the nature of the transaction. Where any party to a sale, exchange, even exchange or gift is a corporation, the president, vice president, secretary, manager or other authorized officer of the corporation shall make the affidavit for the corporation. When the tax imposed by this Act is paid to the Tax Assessor and Collector, the person upon whom the tax is imposed by this Act shall file with the Tax Assessor and Collector the joint affidavit required by this Section and a copy of the seller's invoice covering the sale of the motor vehicle described in the seller's and purchaser's joint affidavit. The Tax Assessor and Collector shall keep copies of the affidavits and sales invoices until they have been called for by the Comptroller of Public Accounts or his representative for auditing.

"(a) The seller shall attach to each joint affidavit to which he is a signatory a true and complete copy of the invoice pertaining to the transaction described by such affidavit. Said in-

voice shall show the full price of the motor vehicle plus the itemized price of all accessories attached thereto. Failure to attach said invoice shall make the seller liable for payment of an omission fee of Ten Dollars (\$10.00) for each and every taxable transaction for which no invoice is filed with the County Tax Assessor and Collector. All sales and supporting records of each seller shall be open to inspection by the Tax Assessor and Collector and the Comptroller of Public Accounts or his authorized representative. Liability for payment of the omission fee shall be determined by the Comptroller of Public Accounts and upon a determination that a seller owes and omission fee said seller shall be notified by the Comptroller and thereupon said fee shall be payable directly to the Comptroller of Public Accounts.

"(b) Where the joint affidavit or the seller's invoice incorrectly states the amount of the consideration actually received by the seller so that the tax actually paid is less than that which was actually due, the seller shall pay an affidavit error fee as follows:

"(i) Twenty-five Dollars (\$25) if the actual consideration received by the seller was from five per cent (5%) through ten per cent (10%) greater than the consideration upon which the tax was paid, and

"(ii) One Hundred Dollars (\$100) if the actual consideration received by the seller was in excess of ten per cent (10%) greater than the consideration upon which the tax was paid.

"(c) The seller shall pay the affidavit error fee to the Tax Assessor and Collector. One-half ($\frac{1}{2}$) of the affidavit error fee shall be retained by the county as a fee of office or paid into the officers salary fund of the county, as is provided by general law. The remainder of the affidavit error fee shall be paid over to the State."

ARTICLE III CIGARETTE TAX

Section 3.01. That subsection (a) of Section 1 of Chapter 241, Acts of the Forty-fourth Legislature, 1935, as last amended by Chapter 310, Acts of the Forty-fifth Legislature, 1937, compiled as Subsection (a) of Section 1 of Article 7047c-1, Vernon's Annotated Civil Statutes of Texas, be and is hereby amended so as to hereafter read as follows:

"Section 1.

(a) 'Cigarette' shall mean and include any roll for smoking made wholly or in part of tobacco irrespective of size or shape and irrespective of tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material other than tobacco. Provided the definition herein shall not be construed to include cigars.

By 'cigar,' as used herein, shall mean any roll of fermented tobacco wrapped in tobacco in any form. The main stream of smoke given off by a cigar shall be of alkaline reaction to litmus paper; and the main stream of smoke of a cigarette shall be of acid reaction to litmus paper."

Section 3.02. That Subsection (a) of Section 2½ of Chapter 241, Acts of the Forty-fourth Legislature, 1935, as added by Section 2 of Article 1 of Chapter 404, Acts of the Fifty-fourth Legislature, 1955, compiled as Subsection (a) of Section 2½ of Article 7047c-1, Vernon's Annotated Civil Statutes of Texas, be and the same is hereby amended so as to hereafter read as follows:

"Section 2½. (a) In addition to the tax levied by Section 2 herein, there is hereby imposed a tax of Two Dollars (\$2.00) per thousand on cigarettes weighing not more than three (3) pounds per thousand and Two Dollars (\$2.00) per thousand on those weighing more than three (3) pounds per thousand on all cigarettes used or otherwise disposed of in this State for any purpose whatsoever. The said tax shall be paid only once by the person making the 'first sale' in this State and shall become due and payable as soon as such cigarettes are subject to a first sale in Texas, it being intended to impose the tax as soon as such cigarettes are received by any person in Texas for the purpose of making a 'first sale' of same. No person, however, shall be required to pay a tax on cigarettes brought into this State on or about his person in quantities of forty (40) cigarettes or less when such cigarettes have had the individual packages or seals thereof broken and when such cigarettes are actually used by said person and not sold or offered for sale."

Sec. 3.03. That Chapter 241, Acts of the Forty-fourth Legislature, Regular Session, 1935, as amended, compiled as Article 7047c-1 of Vernon's

Annotated Civil Statutes of Texas is hereby amended by adding a new Section following Section 3B to be known as Section 3C to read as follows:

"Section 3C. The State Treasurer shall require that payment in full for stamps or meter settings be made within fifteen (15) days from the date the stamps or the set meter are received by the distributor. Upon receipt of an order for stamps or the setting of a meter, the State Treasurer shall ship such stamps or set such meter in compliance with the order and transmit with the stamps or the meter a certified statement showing the amount due for said stamps or meter setting, and the distributor shall forward a remittance as payment in full of the amount certified as due by the State Treasurer within fifteen (15) days after receipt of the stamps or the set meter and the certified statement. Any distributor who fails to forward the proper remittance within fifteen (15) days after receipt of the stamps or the set meter and the certified statement shall be notified by the State Treasurer within five (5) days after the end of the fifteen-day period to appear within five (5) days before the Treasurer to show cause why he should not be denied the privilege of ordering stamps as herein provided, and if such distributor shall fail to show good cause, the Treasurer is hereby authorized to discontinue the shipment of stamps or the setting of meters as provided in this Section."

Sec. 3.04. That Section 3 of Chapter 241, Acts of the Forty-fourth Legislature, Regular Session, 1935, as such Act was amended by Section 3 of Article I of Chapter 404, Acts of the Fifty-fourth Legislature, Regular Session, 1955, the same being compiled as Section 3 of Article 7047c-1, Vernon's Annotated Civil Statutes of Texas, is hereby amended by amending Subsection (b) thereof so as to hereafter read as follows:

"(b) The Board, acting through the Treasurer, shall, upon receipt of the stamps hereinabove authorized to be printed or manufactured, designate the date of issue of the new design of stamps by issuing a proclamation as hereinafter provided. Provided that the stamps shall be affixed by the distributor on each individual package of cigarettes that will be handled, sold, distributed, or used; that said stamps shall be supplied by said Treasurer to all distributors holding

a permit at a discount of two per cent (2%) of the face value; provided, that no discount shall be allowed to out-of-state purchasers residing in the states that do not give discounts on cigarette tax stamps purchased from said states by Texas cigarette distributors; provided that if any distributor fails or refuses to comply with any provision of the cigarette tax law or violates the same, such distributor shall be required to pay the full face value for stamps purchased during the period of such offense and the Treasurer shall, upon receipt of an affidavit from the Comptroller, setting forth such violation, refuse to supply stamps at the discount provided until such offending distributor has paid any unauthorized discounts received by him and has otherwise purged himself of all such violations; provided further, that every distributor shall cause to be affixed to every individual package of cigarettes on which a tax is due, stamps of an amount equaling the tax due thereon, before any such distributor sells, offers for sale, or consumes, or otherwise distributes or transports the same."

ARTICLE IV UTILITIES TAX

Section 4.01. Article 7060 of the Revised Civil Statutes of Texas, 1925, as last amended by Section VI of Chapter 402, Acts of the Fifty-second Legislature, Regular Session, 1951, be and the same is hereby amended so as to read hereafter as follows:

"Article 7060. Gas, Electric Light, Power or Water Works. Each individual, company, corporation, or association owning, operating, managing, or controlling any gas, electric light, electric power, or water works, or water and light plant, located within any incorporated town or city in this State, and used for local sale and distribution in said town or city, and charging for such gas, electric light, electric power, or water, shall make quarterly, on the first day of January, April, July, and October of each year, a report to the Comptroller under oath of the individual, or of the president, treasurer or superintendent of such company, or corporation, or association, showing the gross amount received from such business done in each such incorporated city or town within this State in the payment of charges for such gas, electric lights, electric power, or water for the quar-

ter next preceding. Said individual, company, corporation, or association, at the time of making said report for any such incorporated town or city of more than one thousand (1,000) inhabitants and less than two thousand, five hundred (2,500) inhabitants, according to the last Federal Census next preceding the filing of said report, shall pay to the Treasurer of this State an occupation tax for the quarter beginning on said date equal to .581% of said gross receipts, as shown by said report; and for any incorporated town or city of more than two thousand, five hundred (2,500) inhabitants and less than ten thousand (10,000) inhabitants, according to the last Federal Census next preceding the filing of said report, the said individual, company, corporation, or association at the time of making said report shall pay to the Treasurer of this State an occupation tax for the quarter beginning on said date an amount equal to 1.07% of said gross receipts, as shown by said report; and for any incorporated town or city of ten thousand (10,000) inhabitants or more, according to the last Federal Census next preceding the filing of said report, the said individual, company, corporation, or association, at the time of making said report, shall pay to the Treasurer of this State an occupation tax for the quarter beginning on said date an amount equal to 1.997% of said gross receipts, as shown by said report. Nothing herein shall apply to any such gas, electric light, power or water works, or water and light plant, within this State, owned and operated by any city or town, nor to any county or water improvement or conservation district.

"Nothing herein shall be construed to require payment of the tax on gross receipts herein levied more than once on the same commodity, and where the commodity is produced by one individual, company, corporation, or association, and distributed by another, the tax shall be paid by the distributor alone.

"No city or other political subdivision of this State, by virtue of its taxing power, proprietary power, police power or otherwise, shall impose an occupation tax or charge of any sort upon any person, corporation, or association required to pay an occupation tax under this Article. Nothing in this Article shall be construed as affecting in any way the collection of ad valorem taxes authorized by law; nor impairing or altering in any

was the provisions of any contracts, agreements, or franchises now in existence, or hereafter made between a city and a public utility, relating to payments of any sort to a city. Nothing in this Article shall be construed as prohibiting an incorporated city or town from making a reasonable charge, otherwise lawful, for the use of its streets, alleys, and public ways by a public utility in the conduct of its business, and each such city shall have such right and power; but any such charges, whether designated as rentals or otherwise, or whether measured by gross receipts, units of installation, or in any manner, shall not in the aggregate exceed the equivalent of two per cent (2%) of the gross receipts of such utility within such municipality derived from the sale of gas, electric energy, or water. Any special taxes, rental, contributions, or charges accruing after the effective date of this Act, under the terms of any pre-existing contract or franchise, against any utility paying an occupation tax under this Article, when paid to any such city, shall be credited on the amount owed by such public utility on any charge or rental imposed for the use of streets, alleys, and public ways, levied by ordinance, and accruing after the effective date of this Act; provided that where valid ordinances have been enacted heretofore by cities imposing a charge or rental in excess of two per cent (2%) of the gross receipts of such utilities, nothing herein shall be construed so as to prohibit the collection of such sum as may be due said cities thereunder from the date of said ordinances up to the time this Article shall become effective.

"And provided further that utilities paying an occupation tax under this Article shall not hereafter be required to pay the license fee imposed in Article 5a, House Bill No. 18, Chapter 400, Acts of the Forty-fourth Legislature, for the privilege of selling gas and electric appliances and parts for the repairs thereof, in towns of three thousand (3,000) or less in population according to the next preceding Federal Census."

Sec. 4.02. Acts of the Fifty-first Legislature, First Called Session, 1950, Chapter 2, Article V, Section 1, compiled in Vernon's Texas Civil Statutes as Article 7060½, is hereby repealed.

Sec. 4.03. Subsection (a) of Article 7059 of the Revised Civil Statutes of

Texas, 1925, as last amended by Chapter 299, Acts of the Forty-ninth Legislature, Regular Session, 1945, shall be and is hereby amended so as to read hereafter as follows:

"Article 7059. Telegraph companies.

(a) Each individual, company, corporation, or association owning, operating, managing or controlling any telegraph lines in this State, or owning, operating, controlling or managing what is known as wireless telegraph stations, for the transmission of messages or aerograms, and charging for the transmission of such messages or aerograms, shall make quarterly, on the first days of January, April, July, and October of each year, a report to the Comptroller, under oath of the individual, or of the president, treasurer, or superintendent of such company, corporation, or association, showing the gross amount received from all business within this State during the preceding quarter, in the payment of telegraph or aerogram charges, including the amount received on full rate messages and aerograms, and half rate messages and aerograms, and from the lease or use of any wires or equipment within the State during said quarter, excepting all business transacted for and on behalf of the agencies of the United States Government, for which rates are prescribed by the Postmaster General. Said individuals, companies, corporations, and associations, at the time of making said report, shall pay to the State Treasurer, and there is hereby levied upon said individuals, companies, corporations, and associations, an occupation tax for the quarter beginning on said date, equal to one and eighty hundredths per cent (1.80%) of the gross receipts, as shown by said report, received from doing business outside of incorporated cities and towns and within incorporated cities and towns of less than two thousand, five hundred (2,500) inhabitants, according to the last preceding Federal Census; an occupation tax for the quarter beginning on said date, equal to two and ten hundredths per cent (2.10%) of said gross receipts, as shown by said report, received from doing business within incorporated cities and towns of more than two thousand, five hundred (2,500) inhabitants, and not more than ten thousand (10,000) inhabitants according to the last preceding Federal Census; an occupation tax for the

quarter beginning on said date, equal to two and seven hundred thirty thousandths per cent (2.730%) of said gross receipts, as shown by said report, received from doing business within incorporated cities and towns of more than ten thousand (10,000) inhabitants according to the last preceding Federal Census."

ARTICLE V

DISTILLED SPIRITS AND WINE TAX

Section 5.01. Section 21 of Article 1, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature as last amended by Section VIII of Chapter 402, Acts of the Fifty-second Legislature, Regular Session, 1951, compiled as Article 666-21, Vernon's Annotated Penal Code of Texas, shall be and is hereby amended so as to read hereafter as follows:

"Section 21. There is hereby levied and imposed on the first sale in addition to the other fees and taxes levied by this Act the following:

"(a) A tax of One Dollar and Sixty-eight Cents (\$1.68) per gallon on each gallon of distilled spirits, providing the minimum tax on any package of distilled spirits shall be \$0.105.

"(b) A tax of \$0.132 on each gallon of vinous liquor that does not contain over fourteen per cent (14%) of alcohol by volume.

"(c) A tax of \$0.264 on each gallon of vinous liquor containing more than fourteen per cent (14%) and not more than twenty-four per cent (24%) of alcohol by volume.

"(d) A tax of \$0.330 on each gallon of artificially carbonated and natural sparkling vinous liquor.

"(e) A tax of \$0.660 on each gallon of vinous liquor containing alcohol in excess of twenty-four per cent (24%) by volume.

"(f) A tax of \$0.165 on each gallon of malt liquor containing alcohol in excess of four per cent (4%) by weight.

"The term 'first sale' as used in Article I of this Act shall mean and include the first sale, possession, distribution, or use in this State of any and all liquor refined, blended, manufactured, imported into, or in any other manner produced or acquired, possessed, or brought into this State.

"The tax herein levied shall be paid by affixing a stamp or stamps on each bottle or container of liquor. Said stamps shall be affixed in strict ac-

cordance with any rule or regulation promulgated in pursuance of this Act; provided, however, any holder of a permit as a retail dealer as that term is defined herein shall be held liable for any tax due on any liquor sold on which the tax has not been paid.

"It shall be the duty of each person who makes a first sale of any liquor in this State to affix said stamps on each bottle or container of liquor and to cancel the same in accordance with any rule and regulation of the Board. The Board shall have power to relax the foregoing provision when in its judgment it would be impracticable to require the affixing of such stamp on the bottle or container, irrespective of any other provision of this Act. And any person, persons, or association who violates any portion of this Section shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000), or by imprisonment in the county jail for not less than thirty (30) days nor more than one (1) year. Every holder of a permit authorizing the wholesaling of liquor, upon receipt of a shipment of liquor for sale within this State, under the provisions of this Act, shall prepare and furnish such information and such reports as may be required by rules and regulations of the Board. Any person authorized to export liquor from this State having in his possession any liquor intended for shipment to any place without the State, shall keep such liquors in a separate compartment from that of liquors intended for sale within the State so that the same may be easily inspected and shall attach to each such package of liquor so intended for shipment without the State a stamp of the kind and character that shall be required by proper rule or regulation denoting that the same is not intended for sale within the State. When such liquors are so kept and so stamped no tax on account thereof shall be charged. For defraying the expenses thereof, a charge of twenty-five cents (25c) shall be made for every such stamp, except that a charge of ten cents (10c) shall be made for each such stamp placed on vinous or malt liquors of twenty-four per cent (24%) alcoholic content or less. All such permittees authorized to transport liquor beyond the boundaries of this

State shall furnish to the Board duplicate copies of all invoices for the sale of such liquors, within twenty-four (24) hours after such liquors have been removed from their place of business."

ARTICLE VI CIGARS AND TOBACCO PRODUCTS TAX

Section 6.01. Whenever used in this Article:

(a) The word "person" shall mean any individual, company, corporation, partnership, association, joint adventure, estate, trust or any other group or combination acting as a unit, and the plural, as well as the singular, unless the intention to give a more limited meaning is disclosed by the context.

(b) The word "Comptroller" shall mean the Comptroller of Public Accounts of the State of Texas.

(c) The word "wholesaler" as used herein shall include dealers whose principal business is that of a wholesale dealer or jobber and who is known to the trade as such, who shall sell any cigars or tobacco products to licensed retail dealers only for the purpose of resale or giving it away, or exposing the same where it may be taken or purchased or otherwise acquired by the retailer.

(d) The word "retailer" as used herein shall include every dealer other than the wholesale dealer as defined above, whose principal business is that of selling merchandise at retail, who shall sell or offer for sale cigars or tobacco products, irrespective of quantity or number of sales, giving the same away or exposing the same where it may be taken or purchased or otherwise acquired by the consumer.

(e) The word "consumer" shall mean a person who comes into possession of tobacco for the purpose of consuming it, giving it away, or disposing of it in any other way.

(f) The words "first sale" shall mean and include the first sale or distribution of cigars or tobacco products in intrastate commerce in the State of Texas or the first use or consumption of cigars or tobacco products within this State.

(g) The words "tobacco products" shall mean any cigars, sheroots, stogies, smoking tobacco (including granulated, plug-cut, crimp-cut, ready-rubbed, and any other kinds

and forms of tobacco suitable for smoking in a pipe or cigarette), chewing tobacco (including Cavendish, Twist, plug, scrap and any other kinds and form of tobacco suitable for chewing, however prepared; and shall include any other articles or products made of tobacco or any substitute therefor, but shall not include cigarettes.

(h) The term "distributing agent" shall mean and include every person in this State who acts as an agent of any person outside the State by receiving cigars and tobacco products in interstate commerce and storing such items subject to distribution or delivery upon order from said person outside the State to distributors, wholesale dealers, and retail dealers, or to consumers within the State of Texas. The term "distributing agent" shall also mean and include any person who solicits or takes orders for cigars and tobacco products to be shipped in interstate commerce to a person in this State by a person residing outside of Texas, the tax levied by this Act not having been previously paid on said cigars and tobacco products.

(i) The term "stamp" as used herein shall mean the stamp or stamps by use of which the tax levied hereunder is paid.

(j) The term "drop shipment" shall mean and include any delivery of cigars or tobacco products received by any person within this State when payment for such cigars or tobacco products is made to the shipper or seller, buyer or through a person other than the consignee.

(k) The term "cigar," as used herein, shall mean any roll of fermented tobacco wrapped in tobacco in any form. The main stream of smoke given off by a cigar shall be of alkaline reaction to litmus paper; and the main stream of smoke of a cigarette shall be of acid reaction to litmus paper.

(l) The word "dealer" shall include every person, firm, corporation, or association of persons who manufacture cigars or tobacco products for distribution, sale, or use or consumption in the State of Texas. The word "dealer" is also further defined as meaning any person, firm, corporation, or association of persons who imports cigars or tobacco products from any State or foreign country for distribution, sale, use, or consumption in the State of Texas.

(m) The word "Board" or "Board of Control" shall mean the Board of Control of the State of Texas.

(n) The word "Treasurer" shall mean the Treasurer of the State of Texas.

(o) The term "retail price" shall mean the price paid by the consumer for individual cigars or other tobacco products and shall be construed to mean the retail or selling price before adding the amount of the tax and shall be construed to mean the ordinary retail price.

Sec. 6.02. The tax levied herein shall be paid only once by the person making the "first sale" in this State and shall become due and payable as soon as such cigars or tobacco products are subject to the "first sale" in Texas, it being intended to impose the tax as soon as such cigars or other tobacco products are received by any person in Texas for the purpose of making a "first sale" of the same. No person, however, shall be required to pay a tax on cigars brought into this State on or about his person in quantities or amounts which would ordinarily retail at twenty-five cents (25c) or less when such cigars or tobacco products are actually used by said person and not sold or ordered for sale in this State.

Sec. 6.03. There is hereby levied a tax upon the "first sale" of cigars and tobacco products as those terms are defined herein, which tax shall be determined by the following schedule:

(a) Upon cigars of all description weighing not more than three (3) pounds per thousand, two cents (2c) for each ten (10) cigars or fraction thereof;

(b) Upon cigars of all description weighing more than three (3) pounds per thousand retailing for not more than ten cents (10c) each, Twenty-four Dollars (\$24) per thousand;

(c) Upon cigars of all description weighing more than three (3) pounds per thousand retailing for over ten cents (10c) each but not more than twenty cents (20c) each, Thirty-seven Dollars and Fifty Cents (\$37.50) per thousand;

(d) Upon cigars of all description weighing more than three (3) pounds per thousand retailing for more than twenty cents (20c) each, Fifty Dollars (\$50) per thousand;

(e) Upon all smoking tobacco including granulated, plug-cut, crimp-cut, ready-rubbed, and other kinds

and forms of tobacco prepared in such manner as to be suitable for smoking in a pipe or cigarette: the tax shall be twenty-five per cent (25%) of the factory list price, exclusive of any trade discount, special discount, or deals.

(f) Chewing tobacco: twenty-five cents (25c) per pound.

Sec. 6.04. The tax imposed by this Article shall be paid by affixing stamps in the manner and at the time herein set forth. In the case of cigars the stamps shall be affixed to the box or container in which or from which normally sold at retail.

Wholesalers and jobbers shall affix all required stamps within seventy-two (72) hours after such tobacco products are received by them; provided, however, the Comptroller may in his discretion where it is practical and reasonable for the enforcement of the collection of taxes provided hereunder promulgate such rules and regulations as to permit cigars and tobacco products to remain unstamped in the hands of wholesalers and jobbers until the original case or crate is broken, unpacked or sold. Any retailer shall have twenty-four (24) hours within which to affix the stamps after such tobacco products are received by him or them.

Sec. 6.05. The method of administration and enforcement of this Article shall be the same as the method provided for the administration and enforcement of the Cigarette Tax Law or Acts 1935, 44th Legislature, Chapter 241, as amended, compiled in Vernon's Annotated Civil Statutes of Texas as Article 7047c-1. The stamps which shall evidence payment of the tax levied by this Article shall be prepared in the same manner as the stamps which evidence payment of the Cigarette Tax. All stamps sold hereunder shall be sold in the same manner as the stamps sold under said Cigarette Tax Law; provided that the stamps shall be affixed by the distributor on each individual package of tobacco products that will be handled, sold, distributed, or used; that said stamps shall be supplied by the State Treasurer to all distributors holding a permit at a discount of five per cent (5%) of three-fourths (3/4) of the face value. All reports required of wholesale dealers, retail dealers, or other dealers under the Cigarette Tax Law shall be required of all such dealers handling products upon which the

tax is levied and purchasing tax stamps under the terms of this Article; all reports required of dealers under the Cigarette Tax Law are required of dealers making "first sales" or otherwise handling cigars or tobacco products in intrastate commerce in the State of Texas, and the Comptroller shall have the same remedies as are provided in the said Cigarette Tax Law to insure that all such reports are filed and that the tax levied herein is paid; all violations of this Article shall be considered violations of Acts, 1935, 44th Legislature, Chapter 241, as amended, compiled in Vernon's Annotated Civil Statutes of Texas as Article 7047c-1, and shall be punished in the same manner as is provided therein; all records and reports of purchases and sales required to be kept under the Cigarette Tax Law are hereby required to be kept under this Article; all permits required of distributors, wholesale dealers, retail dealers and other dealers or solicitors under the Cigarette Tax Law shall be required of all such persons under the terms of this Article, and all such permits shall be secured in the manner provided in such Cigarette Tax Law, and all fees for such permit shall be the same as is charged for comparable permits under the Cigarette Tax Law, and all such permits shall be for a like term as is provided for permits under the Cigarette Tax Law, and all penalties for failure to obtain or renew such permits shall be the same as is provided for failure to obtain or renew permits under the Cigarette Tax Law and all other requirements, such as for display of such permits, privileges, penalties, and provisions applying to such permits, under the Cigarette Tax Law shall apply to permits under the terms of this Article; all presumptions of violation provided for under the Cigarette Tax Law shall be presumptions of violations occurring under the terms of this Article; every dealer of whatever kind handling the products upon which a tax is levied by this Article in interstate commerce shall be required to execute and file a bond with the Comptroller of Public Accounts in the same manner and amount as is required of interstate dealers under the Cigarette Tax Law, and all requirements for cancellation of said bond, and all requirements for conditions of said bond, and all requirements for segregation of interstate stock under the terms of this

Article shall be exactly the same as under the Cigarette Tax Law; all taxes, penalties, interest and cost of auditing under the terms of this Article shall constitute a preferred lien in exactly the same manner as is provided under the Cigarette Tax Law.

Sec. 6.06. In lieu of the method of administration set out in Section 6.05 of this Article, the Comptroller shall have authority to establish an invoice system for the collection of the tax imposed by this Article; and to this end, the Comptroller shall have authority to promulgate such rules and regulations as he may deem necessary for the efficient and effective administration of an invoice system of tax collection.

Sec. 6.07. The Comptroller and the Treasurer shall have the power to make such rules and promulgate such regulations as necessary to the efficient administration of their respective functions under this Article.

Sec. 6.08. Two and one-half per cent (2½%) of the gross amount of taxes, permit and license fees and other funds derived under the provisions of this Article shall be set aside in a special fund subject to the use of the Comptroller and so much of said fund as may be necessary shall be expended in the administration and enforcement of this Article and so much of the proceeds of two and one-half per cent (2½%) of said tax and funds shall be and the same is hereby allocated for said purposes, same to be paid monthly as needed; provided that payment for the manufacturing or printing of the cigarette tax stamps and for any expenses incurred by the Board of Control incident thereto shall be made from the revenue derived from the tax levied herein before such fund is allocated under the provisions of this Article and so much of said fund as may be necessary is hereby allocated for such purpose; any unexpended portion of said funds so specified shall at the end of each biennium be paid in the proper proportion to the fund to which the tax shall be allocated.

ARTICLE VII

FRANCHISE TAX

Section 7.01. That Chapter 3, Title 122, Revised Civil Statutes of Texas, 1925, be amended by the addition of a new Article to be known as Article 7084a to read as follows:

"Article 7084a. Additional Tax.

In addition to all other taxes, there is hereby levied an additional franchise tax of seventy-five cents (75c) per One Thousand Dollars (\$1,000), or fractional part thereof, of the entire taxable capital of all corporations, other than those exempt by law from the payment of the franchise tax imposed in Article 7084, Revised Civil Statutes of Texas, 1925, as amended, as computed under Article 7084 of the Revised Civil Statutes of Texas, 1925, as heretofore amended, for the preceding fiscal year as shown in the report required to be filed with the Secretary of State between January 1 and March 15, 1959 (or the initial or first year report required to be filed with the Secretary of State) under the provisions of Article 7089 of the Revised Civil Statutes of Texas, 1925, as heretofore amended, upon the privilege of doing business in Texas in corporate form for the period beginning on the effective date of this Act, and ending April 30, 1960. The tax levied herein shall be paid to the Secretary of State within thirty (30) days after the effective date of this Act. If any corporation fails to pay the additional tax within thirty (30) days after the effective date of this Act, the right of such corporation to do business in this State shall be forfeited on November 1, 1959, which forfeiture shall be consummated without judicial ascertainment by the Secretary of State entering upon the margin of the record kept in his office relating to such corporation the words, "right to do business forfeited" and the date of such forfeiture, and provided further that such defaulting corporation shall be subject to the same penalties, liens and conditions as provided by Articles 7089, 7090, 7091, 7092, 7095 and 7096, Revised Civil Statutes of Texas, 1925, as amended.

In order to effect collection of the additional tax hereby levied, the Secretary of State shall mail to all corporations such notice or supplemental report forms as may be necessary, together with notice that for failure to pay the additional tax within thirty (30) days after the effective date of this Act, the right of such corporation to do business in Texas will be forfeited, as above provided.

The additional tax imposed herein shall expire on April 30, 1960."

Sec. 7.02. That Chapter 3, Title

122, Revised Civil Statutes of Texas, 1925, be amended by the addition of a new Article to be known as Article 7084b, to read as follows:

"Article 7084b. Additional Tax.

In addition to the franchise tax due and payable under Article 7084, Revised Civil Statutes of Texas, 1925, as amended, there is hereby levied an additional franchise tax of fifty cents (50c) per One Thousand Dollars (\$1,000), or fractional part thereof, of the entire taxable capital of all corporations, other than those exempt by law from the payment of the franchise tax imposed by Article 7084, Revised Civil Statutes of Texas, 1925, as amended, upon the privilege of doing business in Texas in corporate form in the periods from May 1, 1960, to and including April 30, 1961, and from May 1, 1961, to and including April 30, 1962. The tax levied herein for the periods from May 1, 1960, to and including April 30, 1961, and May 1, 1961, to and including April 30, 1962, shall be paid at the same time, in the same manner, and subject to the same terms, penalties and conditions as the franchise tax that will become due and payable in the same periods under the provisions of the aforesaid Article 7084, Revised Civil Statutes of Texas, 1925, as amended.

In order to effect the collection of the tax imposed for the periods from May 1, 1960, to and including April 30, 1961, and from May 1, 1961, to and including April 30, 1962, the Secretary of State shall mail to all corporations required to pay said additional tax such additional or supplemental report forms as he may deem necessary for the collection of said additional tax; and he shall also mail notice to the effect that for failure to file the required report and for failure to pay the additional tax for the period beginning May 1, 1960, and ending April 30, 1961, the right of such corporations to do business in Texas will be forfeited on September 1, 1960, and that for failure to file the required report and for failure to pay the additional tax for the period beginning May 1, 1961, and ending April 30, 1962, the right of such corporations to do business in Texas will be forfeited on September 1, 1961, and will subject any such defaulting corporations to the same penalties and con-

ditions provided by Articles 7089, 7090, 7091, 7092, 7095, and 7096, Revised Civil Statutes of Texas, 1925, as amended; however, the dates of accrual of such penalties and conditions to be on and after any consummation of the forfeiture of the right to do business.

The additional tax imposed herein shall expire on April 30, 1962."

Sec. 7.03. The Secretary of State shall have the right to make and promulgate such rules and regulations as he deems necessary for the efficient and effective administration and enforcement of the additional taxes imposed by Section 7.01 and Section 7.02 of this Article.

Sec. 7.04. The taxes imposed by Section 7.01 and Section 7.02 of this Article shall be cumulative of all other taxes imposed by this State.

ARTICLE VIII

ENTERTAINMENT ADMISSIONS AND THEATER OCCUPATION TAX

Section 8.01. Subsection 3, Section 3, Article III, Chapter 495, Acts of the Forty-fourth Legislature, Third Called Session, 1936, as last amended by Chapter 34, Acts of the Fifty-fifth Legislature, 1957, which is codified as Article 7047a-19, Paragraph (3), Vernon's Annotated Civil Statutes of Texas, is amended to hereafter read as follows:

"(3) There is hereby levied on each admission to entertainments such as motion pictures, operas, plays and like amusements held at a fixed or regularly established motion picture theater, where the admission charged is in excess of One Dollar and Five Cents (\$1.05) and not more than One Dollar and Fifteen Cents (\$1.15) a tax of one cent (1c); and where the admission charged is in excess of One Dollar and Fifteen Cents (\$1.15) a tax of two cents (2c) plus one cent (1c) on each ten cents (10c) or fractional part thereof in excess of One Dollar and Twenty-five Cents (\$1.25)."

Sec. 8.02. Chapter 35, Acts of the Forty-first Legislature, Fifth Called Session, 1930, which is compiled as Section 22a of Article 7047, Vernon's Annotated Civil Statutes of Texas, is hereby in all things expressly repealed.

ARTICLE IX

SPECIAL FUELS TAX

Section 9.01. Short Title. This Article, and any amendments thereto, shall be known and may be cited as the "Special Fuels Tax Law."

Sec. 9.02. Definitions. The following words and terms, as used in this Article, are defined as follows unless the context clearly indicates a different meaning.

(a) "Special fuels" means all combustible gases and liquids suitable for the generation of power for the propulsion of motor vehicles, including "liquefied gas" and "distillate fuel" as defined in (b) and (c) of this Section, except that the term "special fuels" shall not include "motor fuel" as defined in the motor fuel tax law by Chapter 184, Article XVII, Regular Session of the Forty-seventh Legislature, and amendments thereto.

(b) "Liquefied gas" means all combustible gases which exist in the gaseous state at sixty degrees (60°) Fahrenheit and at a pressure of fourteen and seven-tenths (14.7) pounds per square inch absolute.

(c) "Distillate fuel" means diesel fuel, kerosene, and any other liquid suitable for the generation of power for the propulsion of motor vehicles, except liquefied gas as defined in (b) above and motor fuel as defined in the motor fuel tax law cited in (a) above.

(d) "Bulk" as used in connection with the sale or handling of special fuels, means a quantity of distillate fuel in excess of five (5) gallons, and any quantity of liquefied gas other than in cylinders containing one hundred (100) pounds or less.

(e) "Motor vehicle" means any automobile, truck, pickup, jeep, station wagon, bus or similar vehicle, propelled by a motor or internal combustion engine upon the public highways; provided, that any tractor, combine, or other vehicle or machine designed primarily for use off the public highways shall be deemed to be a motor vehicle when propelled or serviced with special fuels for propulsion, upon the public highways.

(f) "Supplier" means any person who delivers special fuels to dealers or users (including locations of the supplier) for redelivery by them into the fuel supply tanks of motor vehicles.

(g) "Dealer" means and includes

every person who sells any special fuels at retail and delivers such special fuels into the fuel supply tanks of motor vehicles.

(h) "User" means and includes every person who delivers any special fuels into the fuel supply tanks of motor vehicles owned or operated by him. "User" also means any person who imports special fuels into this State in the fuel supply tanks of motor vehicles owned or operated by him.

(i) "Person" means every individual, firm, association, joint stock company, syndicate, partnership copartnership, corporation (public, private, or municipal), trustee, agency or receiver.

(j) "Public highway" means and includes every way or place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel, including toll roads, and notwithstanding that the same may be temporarily closed for the purpose of construction, reconstruction, maintenance or repair.

(k) "Comptroller" means Comptroller of Public Accounts of the State of Texas.

In each case the singular of a word used in this Article shall be deemed to embrace the plural, and the plural shall embrace the singular.

Sec. 9.03. Levy of Tax. (a) An excise tax is hereby levied and imposed upon the use of special fuels for the propulsion of motor vehicles upon the public highways of this State at rates of five cents (5c) per gallon of liquefied gas, and six and five-tenths cents (6.5c) per gallon of distillate fuel, so used, which said tax or taxes shall be collected, reported, and paid as hereinafter provided.

(b) Provided, however, that in lieu of tax rates specified and levied hereinabove an excise tax shall be and is hereby levied and imposed at four cents (4c) per gallon of liquefied gas and six cents (6c) per gallon of distillate fuel used for the propulsion of buses owned by a transit company (a) the greater portion of whose business is the transportation of persons within the limits of an incorporated city or town in conveyances designed to transport twelve (12) or more passengers; (b) which holds a franchise from such city or town; (c) whose rates are regulated by such city or town; and (d) which pays to such city or town a tax on its gross receipts, or any municipally owned and operated transit company.

(c) Every supplier shall collect the tax, at the rate imposed, on each gallon of special fuels delivered to non-bonded dealers or users and shall report and pay to this State the tax so collected. Provided, however, other deliveries of special fuels may be made without collecting the tax otherwise imposed when delivery is made by the supplier into separate storage facilities maintained by dealers when such storage facilities are physically separated from motor vehicle fueling units and prominently labeled "Not for Highway Use" in plain view of the public and in letters of not less than two (2) inches in height.

(d) Every dealer shall collect the tax, at the rate imposed, on each gallon of special fuels delivered by him into the fuel supply tanks of motor vehicles and shall report and pay to this State the tax so collected, unless said tax has been paid to a licensed supplier.

(e) Every user shall report and pay to this State the tax, at the rate imposed, on each gallon of special fuels delivered by him into the fuel supply tanks of motor vehicles, unless said tax has been paid to a licensed supplier. Every user shall also report and pay the tax, at the rate imposed, on each gallon of special fuels imported into this State in the fuel supply tanks of motor vehicles owned or operated by him and consumed in the operation of such motor vehicles upon the public highways of this State. No permit shall be required and no tax shall be paid on special fuels imported in the fuel supply tanks of any motor vehicle when said fuel supply tanks, and any additional containers, have an aggregate capacity of not more than thirty (30) gallons, and if said motor vehicle is not operated by said user for hire, or compensation, or for commercial purposes.

The delivery of special fuels into the fuel supply tanks of tractors, combines or other vehicles or machines designed primarily for non-highway travel for propelling such vehicles or machines over the public highways from one job or custom work performed for others for hire or compensation to another such job, or in hauling goods, wares, merchandise or other commodities over the public highways shall constitute and be deemed to mean the delivery of special fuels into the fuel supply tanks of motor vehicles.

(f) Every licensed supplier shall deduct the tax on one per cent (1%)

of the taxable gallons of special fuels sold, delivered or used by him in the payment of taxes to the State of Texas, which deduction or allowance shall be apportioned among the supplier and dealers who purchase said taxable special fuels as follows; every supplier who makes a bulk sale of special fuels to a dealer, upon which sale the tax is required to be collected, shall set out the tax separately on the invoice and deduct one-half of one per cent ($\frac{1}{2}$ of 1%) of the amount of such tax and the balance shall be the amount of tax the supplier is entitled to collect from such dealer; any dealer or user who is licensed to report and pay taxes directly to this State on special fuels sold or used by him shall be entitled to deduct one-half of one per cent ($\frac{1}{2}$ of 1%) of the taxes paid directly to the State of Texas by him.

The above deductions or allowances shall be for evaporation and handling losses, and for the expense of collecting taxes, making reports and tax remittances, and keeping records.

(g) No city, town, county, or other political subdivision of this State shall levy or collect any excise tax on the sale or use of special fuels.

Sec. 9.04. Dual Carburetion—Presumption of Use. Any person who operates a motor vehicle that is equipped to use motor fuel and special fuels interchangeably in the propulsion of said motor vehicle shall be prima facie presumed to have used taxable special fuels exclusively in the operation of said motor vehicle, unless proof of the amount of motor fuel used is maintained for the time and in such form as the Comptroller may require by rule and regulation.

Sec. 9.05. Unlawful Operations of Motor Vehicles.

(a) It is unlawful to transport special fuels upon the public highways in any cargo tank from which special fuels are sold or delivered which has a connection by pipe, tube, valve, or otherwise with the carburetor or with the fuel supply tank feeding the carburetor of the motor vehicle transporting said products.

(b) It is unlawful to operate with special fuels any motor vehicle licensed for operation upon the public highways on which a speedometer is not kept at all times in good operating condition to correctly measure and register the miles traveled by such motor vehicle; and a conviction or judgment secured in any criminal or

civil action by the State against any person for willful violation of or failure or refusal to comply with such provision of law shall forfeit the right of such offender to purchase special fuels in this State without paying the tax thereon for a period of six (6) months from the date final judgment is entered. This provision shall not be construed as prohibiting such person from claiming refund of the tax paid on special fuels purchased and used off the public highways of this State.

Sec. 9.06. Unlawful Sales. Except in the case of tax-paid deliveries into the fuel supply tanks of motor vehicles, it is unlawful to make bulk sales of special fuels to any person who (1) is not licensed as a supplier, or (2) is not licensed as a dealer or user of special fuels, or (3) does not furnish a signed statement that none of the special fuels purchased will be delivered by him or permitted by him to be delivered into the fuel supply tanks of motor vehicles. A taxable use of the special fuels so purchased without securing a user's permit shall, in addition to the penal provisions hereinafter prescribed, forfeit the right of said person to purchase special fuels tax-free for a period of one (1) year from the date of such offense. Except as otherwise prescribed by rule and regulation of the Comptroller, such statement shall be effective from its date of execution to the end of the calendar year, unless revoked in writing by the purchaser after use of any special fuels so purchased, or after becoming licensed as a user. The furnishing of such statements shall be waived for a period of six (6) months from the effective date of this Article and not thereafter.

Sec. 9.07. Tax Liability on Leased Motor Vehicles.

Any user who as lessee, in furtherance of his business, enters into a lease or a contract or other arrangement with another person for the operation of a motor vehicle, the operation of which will create a liability for the tax herein imposed, shall be deemed to be the operator of said motor vehicle or vehicles and shall report and pay the tax accruing by reason of the use under such lease or contract. This provision shall not be construed as relieving any lessor or person acting as a user from the payment of the tax herein imposed in cases where the lessee is not qualified as a licensed and bonded user as re-

quired under this Article. Nothing herein shall be construed as requiring the filing of more than one report covering a given special fuel use operation or as requiring the payment of the tax herein imposed more than one on the same special fuels.

Sec. 9.08. Optional Computation of Tax. In the event the tax herein imposed on special fuels imported into this State in the fuel supply tanks of motor vehicles and the tax on special fuels used in motor vehicles owned or operated by licensed suppliers or other persons acting as users can be more accurately determined on a mileage basis (that is by determining and using the total number of miles traveled and the total gallons of fuel consumed), or in case it is more practicable to so determine the tax, the Comptroller is hereby authorized to approve and adopt such basis.

Sec. 9.09. Applications for Permits.

Every person defined herein as a supplier or dealer or user shall secure from the Comptroller the kind and class of permit required herein to act in such capacities or to perform such functions. Applications, verified by affidavit, shall be filed with the Comptroller for any such permit on a form prescribed by the Comptroller, showing the kind and class of permit desired, and such information as the Comptroller may require.

Sec. 9.10. Bonds. (a) Every person who is authorized by permit or required by law to make remittances or payments directly to this State of taxes collected upon the sale or delivery of special fuels or of taxes incurred upon the use of said products shall file with his application for permit a bond in an amount to be set by the Comptroller at not less than three (3) times the amount of taxes that will accrue or may be expected to accrue during any month of the calendar year, but which bond shall never be less than One Thousand Dollars (\$1,000) if filed by a supplier nor less than Five Hundred Dollars (\$500) if filed by a dealer or user. Every such bond shall be executed by a surety company authorized to do business in this State, payable to the State of Texas, and shall remain in force from the date it is made effective to the end of the calendar year, unless released by the Comptroller as herein provided. Such bond

shall be conditioned upon the full, complete, and faithful performance by the person for whom it is issued of all of the conditions and requirements imposed on said person by this Article, or by rules and regulations promulgated by the Comptroller, and shall expressly guarantee the remittance or payment to the State of Texas within the time prescribed by law of all taxes, penalties, interest, and costs required herein to be remitted or paid to this State by said person. Any such bond which is continuous in form may be continued in effect for a succeeding calendar year by a renewal certificate acceptable to the Comptroller which said renewal certificate, when and if issued, shall have all the force and effect of an original bond.

(b) If the amount of any existing bond becomes insufficient, or any surety on a bond becomes unsatisfactory or unacceptable, the Comptroller may require the filing of a new or an additional bond. The Comptroller shall also have authority to require the filing of reports and tax remittances at shorter intervals than one (1) month if, in his opinion, an existing bond has become insufficient. If any supplier, dealer, or user licensed hereunder shall fail or refuse to file a new or an additional bond within ten (10) days after demand or shall fail or refuse to file reports and remit or pay taxes at the intervals fixed by the Comptroller, his permits shall be revoked or suspended in the manner herein provided. The filing of a new bond, or the cancellation or suspension of a permit, or recoveries on any bond, shall not invalidate an existing bond, but any surety on a bond shall be released and discharged from any and all liability accruing under such bond after the expiration of thirty (30) days from the date such surety has filed with the Comptroller at his office in Austin, Travis County, Texas, written request to be released and discharged. Such request shall not operate to release or discharge such surety from liabilities incurred prior to the expiration of said thirty-day period. The Comptroller shall, upon receipt of any such request, promptly notify the person in whose behalf such bond was filed, and unless said person shall file with the Comptroller a new bond in the amount and form herein provided within fifteen (15) days from

the date of such notice, the Comptroller shall proceed to cancel the permit of said person.

(c) Any person who has filed with the Comptroller a bond as a motor fuel distributor under the terms and conditions provided in the Motor Fuel Tax Law, Chapter 184, Article XVII, Regular Session of the Forty-seventh Legislature, as amended, may extend the terms and conditions of said distributor's bond, by rider or bond form approved by the Comptroller, to include coverage of all liabilities and conditions imposed by this Article upon the supplier, or the dealer, or the user to whom said extension is made applicable. The amount of bond that may be required of a supplier, dealer or user shall not exceed the maximum amount provided by said Motor Fuel Tax Law for a motor fuel distributor's permit.

(d) Any applicant for a permit may, in lieu of filing a surety bond, deposit cash in the amount of bond required in the Suspense Account of the State Treasury, or may deposit securities of a par value equal to the amount of bond required and of a class in which funds of The University of Texas may be legally invested. Such cash or securities shall be released within sixty (60) days after cancellation or surrender of any permit held by the person in whose behalf they were deposited when said permit holder has been cleared of all tax liability by the Comptroller. The Comptroller is hereby authorized and empowered to withdraw and use any such cash and to sell any such securities and use the proceeds therefrom to pay off and satisfy any judgment secured in any action by this State to recover special fuels taxes, costs, penalties and interest found to be due said State by any person in whose behalf such cash or such securities were deposited. Any such person may acknowledge in writing the correctness of the State's claim against him for taxes, costs, penalties and interest and may authorize the use of said cash or the proceeds from the sale of such securities to pay on or pay off the claim without having suit filed.

Sec. 9.11. Permits.

(a) Upon approval of an application and approval of bond if a bond is required, the Comptroller shall issue to the applicant a permit authorizing him to engage in the kind of business

or other operations or to perform the functions set out in and authorized by the class of permit so issued. The permits shall be issued for each calendar year, or any unexpired part of a year, and shall be effective from the date of issue to the end of such calendar year, unless revoked or suspended for cause, as hereinafter provided. Such permits shall be of the kinds and classifications as set out hereinbelow:

Non-Bonded Supplier Permits.

Authorizing persons to engage in business as suppliers of special fuels to Bonded Dealers and Bonded Users only.

Bonded Supplier Permits.

Authorizing persons to engage in business as suppliers of special fuels to either Bonded or Non-Bonded Dealers and Users.

Non-Bonded Dealer Permits.

Authorizing persons whose retail sales of special fuels are predominantly for delivery into the fuel supply tanks of motor vehicles, to engage in business as dealers.

Bonded Dealer Permits.

Authorizing persons whose retail sales of special fuels are not predominantly for delivery into the fuel supply tanks of motor vehicles, to engage in business as dealers.

Non-Bonded User Permits.

Authorizing persons whose purchases of special fuels are predominantly for delivery by them into the fuel supply tanks of motor vehicles owned or operated by them, to act as users.

Bonded User Permits.

Authorizing persons whose purchases of special fuels are not predominantly for delivery by them into the fuel supply tanks of motor vehicles owned or operated by them, to act as users.

Bonded User Import Permits.

Authorizing persons who import special fuels into this State in the fuel supply tanks of motor vehicles owned or operated by them to act as users.

The Comptroller shall determine from the information shown in the application or other investigation the kind and class of permit to be issued.

The Comptroller may authorize a change in the classification of a permit holder when it will facilitate the

administration of this Article.

A supplier may operate under his supplier's permit as a dealer or as a user without securing a separate permit but he shall be subject to all other conditions, requirements, and liabilities imposed by this Article upon a dealer or a user. A licensed dealer may use special fuels in motor vehicles owned or operated by him without securing a separate permit as a user, subject to all conditions, requirements, and liabilities imposed herein upon a user.

All permits shall be posted in a conspicuous place or kept available for public inspection at the principal place of business of the owner thereof. A certificate of the permit shall be issued for and kept on display at each additional place of business or other operation of the permit holder. Persons holding users' import permits shall reproduce the permit by photostat or other method for each motor vehicle operated, by said permit holders and shall carry a copy of said permit with each motor vehicle while operating in Texas.

(b) The Comptroller, or any authorized representative of the Comptroller is hereby authorized to cancel or to suspend any permit issued under the terms of this Article or to refuse the issuance, extension, or reinstatement of any permit to any person who has violated, or has failed to comply with, any rule and regulation of the Comptroller or any provision of this Article. Before any such permit may be cancelled or suspended, or the issuance, or extension, or reinstatement of any such permit may be refused, the Comptroller shall give the owner of such permit, or applicant therefor, not less than five (5) days notice of a hearing at the office of the Comptroller in Austin, Travis County, Texas, or at any district office maintained by the Comptroller's Department, granting said owner or applicant an opportunity to show cause before the Comptroller, or his authorized representative, why such action should not be taken. Such notice shall be in writing and may be mailed by certified or registered mail to said owner or applicant at his last known address or may be delivered by a representative of the Comptroller to the owner or applicant, and no other notice shall be required. The Comptroller may prescribe his own rules of procedure and evidence for such hearings.

If, after said hearing or opportunity to be heard, the permit is cancelled, as above provided, all taxes which have been collected or required to be collected upon the sale or delivery of special fuels and all taxes which have accrued upon the use of said product shall ipso facto become delinquent, and the permittee shall forthwith file a report for any period not covered by preceding reports filed by him to the date of cancellation and shall remit and pay to the State of Texas all taxes which have been collected or required to be collected and which have accrued from the sale or delivery or use of special fuels up to and including the date of cancellation. A new permit shall not be issued to any person who is delinquent in the payment of taxes, penalties or interest.

After being given notice of any such order of cancellation, it shall be unlawful for any person to continue to operate his business under a cancelled permit.

(c) An appeal from any order of the Comptroller, or his authorized representative, cancelling or refusing the issuance, extension, or reinstatement of any permit may be taken to the District Court of Travis County, Texas, by the aggrieved permittee or applicant. The trial shall be de novo under the same rules as ordinary civil suits with the following exceptions, which shall be considered literally, viz.: (1) all appeals shall be perfected and filed within thirty (30) days after the effective date of the order, decision, or ruling of the Comptroller, or his authorized representative; (2) such proceedings shall have precedence over all other causes of a different nature; (3) trial of all such cases shall commence within ten (10) days from the filing thereof; (4) the order, decision, or ruling of the Comptroller, or his authorized representative, may be suspended or modified by the court pending a trial on the merits.

Sec. 9.12. Records Required.

(a) Every supplier, dealer, or user holding a permit or required by law to secure a permit to sell, deliver, or use special fuels shall keep for a period of two (2) years open to inspection at all times by the Comptroller or Attorney General, or their authorized representatives, a complete record of all liquefied gas and all distillate fuel purchased or received and all of such products sold, delivered,

or used by them showing the date of each receipt, the name and address of the person from whom purchased or received, the number of gallons of each product received at each place of business or place of storage in Texas, and showing the date of each sale or delivery, the number of gallons of each kind of product sold or delivered for taxable purposes, and the number of gallons of each product sold or delivered for the purposes not subject to the tax imposed herein, and if sold in bulk quantities the name and address of the purchaser, and showing inventories of liquefied gas and of distillate fuel on hand at each place of business at the end of each month.

(b) Each bulk sale and delivery of special fuels shall be covered by an invoice, with the name and address of the supplier or dealer and a serial number printed thereon, showing the complete information set out hereinabove for each such sale, one counterpart of which shall be delivered to the purchaser and another counterpart kept by the supplier or dealer for the period of time and purposes above provided. Each delivery of liquefied gas or distillate fuel into the fuel supply tank of a motor vehicle shall be recorded upon a serially numbered invoice issued in not less than duplicate counterparts on which shall be printed the name and address of the supplier, dealer, or user making such delivery and on which shall be shown, in spaces to be provided on such invoice, the date of delivery, the number of gallons and kind of special fuels so delivered, the total mileage recorded on the speedometer of the motor vehicle into which delivered, and the state highway license number of said motor vehicle.

The invoice shall reflect separately the tax rate and amount of tax on each of the products delivered. One counterpart of the invoice shall be kept by the supplier, dealer, or user making such delivery as a part of his record and for the period of time and purposes hereinabove provided. Another counterpart shall be delivered to the operator of the motor vehicle and carried in the cab compartment of the motor vehicle for inspection by the Comptroller or his representatives for a period of thirty (30) days after the special fuels it covers have been consumed.

(c) Every user shall keep, in addition to his record of deliveries into

motor vehicles, a complete record of the total gallons of liquefied gas and the total gallons of distillate fuel used for other purposes during each month and the purposes for which said special fuels were used.

Sec. 9.13. Tax Payments—Reports.

(a) Every supplier and dealer who is required herein to collect taxes on the sale or delivery of special fuels and every user who is required to pay taxes on the delivery of special fuels into the fuel supply tanks of motor vehicles or on the use of imported special fuels shall, on or before the twenty-fifth (25th) day of each calendar month, pay to the State of Texas at the office of the Comptroller in Austin, Travis County, Texas, the amount of such taxes required to be collected and the amount required to be paid during the month next preceding, unless said taxes have been paid by a dealer or user to a licensed supplier as provided in this Article. At the time of making such tax payments every supplier, dealer, and user who is required to pay any taxes directly to this State, shall file with the Comptroller a report of special fuels handled, in the form and manner as hereinafter provided.

(b) Every supplier shall, on or before the twenty-fifth (25th) day of each calendar month, make and file with the Comptroller upon a form prescribed by the Comptroller an itemized report, verified by affidavit, accounting for the special fuels handled during the preceding month which report shall show the quantities of liquefied gas and the quantities of distillate fuel purchased or received from sources within this State and the quantities of each product received from sources outside of this State, the quantities of each of said products sold or delivered to dealers and users upon which taxes were required to be collected, the quantities of each product sold and delivered to dealers and users without collecting said taxes, the quantities of each product sold and delivered into the fuel supply tanks of motor vehicles, the quantities of each product delivered into the fuel supply tanks of motor vehicles owned or operated by such supplier and the quantities of each product used by him for other purposes, the total quantities of each product sold or delivered to persons other than dealers, users, or operators of motor vehicles, the quantities of

each product lost by fire or other accident, the quantities lost by shrinkage or evaporation, and the total quantities of each product on hand at the beginning and at the end of the month covered by such report. The report shall include a schedule of the total quantities of liquefied gas and distillate fuel sold or delivered to dealers and users without collecting taxes thereon, and the names and addresses of such dealers or users. The Comptroller may in his discretion require selective schedules from any supplier with respect to any purchases, sales or deliveries of special fuels. Every supplier shall attach legal tender to said report or make proper form of money order or exchange payable to the State Treasurer in the amount of taxes due for the period covered by the report.

(c) Every dealer who purchases or acquires special fuels tax-free for taxable resale or delivery of any part of said products shall, on or before the twenty-fifth (25) day of each calendar month, make and file with the Comptroller on forms prescribed by the Comptroller an itemized report, verified by affidavit, accounting for the special fuels handled during the preceding month which report shall show the quantities of liquefied gas and the quantities of distillate fuel purchased or received and the suppliers from whom received, the quantities of each product sold and delivered into the fuel supply tanks of motor vehicles, the quantities of each product sold and delivered for use off the public highways and the purposes for which purchased, the quantities of each product delivered into the fuel supply tanks of motor vehicles owned or operated by such dealer and the quantities of each product used by him for other purposes, the quantities of each product lost by fire or other accident, and the total gallons of each product on hand at the beginning and at the end of the month covered by such report. The Comptroller may in his discretion require schedules from any such dealer with respect to any purchases, sales or deliveries of special fuels. Every such dealer shall attach legal tender to said report or make proper form of money order or exchange payable to the State Treasurer in the amount of taxes due for the period covered by the report.

(d) Every user who purchases or acquires special fuels tax-free for

taxable use of any part of said products shall, on or before the twenty-fifth (25th) day of each calendar month, make and file with the Comptroller upon forms prescribed by the Comptroller an itemized report, verified by affidavit, accounting for the special fuels handled during the preceding month which report shall show the quantities of liquefied gas and the quantities of distillate fuel purchased or received and the suppliers from whom received, the quantities of each product delivered into the fuel supply tanks of motor vehicles owned or operated by such user, the quantities of each product used off the public highways of this State and the purposes for which used, the quantities lost by fire or other accident or disposed of in any other manner, and the total quantities of each product on hand at the beginning and at the end of the month covered by such report. The Comptroller may in his discretion require schedules from any such user with respect to any purchases, deliveries or uses of special fuels. Every such user shall attach legal tender to said report or make proper form of money or exchange payable to the State Treasurer in the amount of taxes due for the period covered by the report.

(e) Every user who imports special fuels in the fuel supply tanks of motor vehicles operated by him on the public highways of Texas for hire or compensation or for commercial purposes shall, on or before the twenty-fifth (25th) day of each calendar month, make and file with the Comptroller on forms prescribed by the Comptroller an itemized report, verified by affidavit, accounting for all special fuels imported and all special fuels used in such motor vehicles during the preceding calendar month, which report shall show for each motor vehicle operated by said user into or from the State of Texas for such purposes, the total miles traveled in Texas and elsewhere, the total quantities of liquefied gas or distillate fuel consumed by each motor vehicle in such travel and the average miles traveled per gallon of fuel consumed, the total miles traveled in the State of Texas and the quantities of liquefied gas or distillate fuel purchased in Texas and delivered into the fuel supply tanks of each such motor vehicle, and such other information pertinent to the use of special fuels in such motor vehicles and the taxes

paid or accrued thereon, as the Comptroller may require. The Comptroller may in his discretion require schedules to be submitted as a part of such report with respect to any special fuels purchased or used in connection with such operations. Every such user shall attach legal tender or make proper form of money order or exchange payable to the State Treasurer in the amount of taxes due for the period covered in the report.

(f) When it shall appear that a supplier, dealer or user to whom the provisions of this Article shall apply had erroneously reported and remitted or paid more taxes than were due the State of Texas upon any special fuels during any taxpaying period, either on account of a mistake of fact or law, it shall be the duty of the Comptroller to credit the total amount of taxes due by such supplier, dealer or user for the current period with the total amount of taxes so erroneously paid, or said supplier, dealer or user may file claim for refund of the taxes erroneously paid. Such credit shall be allowed or the tax refund claim paid before any penalties and interest shall be applicable.

Sec. 9.14 Refunds.

(a) Except as otherwise provided by Section 9.15 of this Article, any licensed dealer who shall have paid the tax imposed by this Article upon any liquefied gas or distillate fuel which has been used or sold for use by such dealer for any purpose other than propelling a motor vehicle upon the public highways of this State, or which has been sold to the United States Government for the exclusive use of said Government, and any licensed user who shall have paid said tax upon any liquefied gas or distillate fuel which has been used by such user for any purpose other than propelling a motor vehicle upon said public highways, may file claim for a refund of the tax or taxes so paid, less one per cent (1%) allowed suppliers for the expense of collecting and reporting such taxes to this State. Such claims shall be filed with the Comptroller on forms prescribed by the Comptroller and shall show the date of filing and the period covered in the claim, the gallons of liquefied gas and the gallons of distillate fuel sold or used for purposes subject to tax refund, and shall show such other facts and information as the Comptroller may by rule and regulation re-

quire. Every such claim shall be supported by an invoice or invoices issued by the claimant, as hereinafter provided, and shall be verified by affidavit of the claimant and filed in the office of the Comptroller within six (6) months from the date the special fuels were invoiced or required to be invoiced for sale or use, and no claim shall be made by the claimant or approved by the Comptroller when the sale of such special fuels or the appropriation for use occurs more than six (6) months prior to the date the claim is filed.

(b) When liquefied gas or distillate fuel is sold by a dealer or is appropriated for use by a user for any purposes for which a refund of the tax paid on said products may be claimed as provided herein, such dealer or user shall, at the time of each sale or appropriation for use and not thereafter, make out a serially numbered invoice in not less than duplicate counterparts with the name and address of the dealer or user printed thereon which shall show the date of the sale or appropriation for use, the quantities of liquefied gas and/or distillate fuel sold or appropriated for use, the purposes for which said products will be used, as declared by the purchaser or user, and such other information as the comptroller may require. The invoice shall be signed by the recipient of any such special fuels purchased from the dealer. One counterpart of each invoice shall be kept by the dealer or user for a period of two (2) years open to the inspection of the Comptroller or his authorized representatives, and the other counterpart shall be filed as a part of the claim for tax refund as above provided.

(c) Any dealer or user who shall file claim for refund of the tax on any special fuels which have been delivered into the fuel supply tank of a motor vehicle, or who shall file any invoice in a claim for tax refund upon which any date, figure, signature, or other material information is false or incorrect, shall forfeit his right to the entire amount of the refund claim filed.

(d) If upon examination or investigation the Comptroller finds that the claim is just and that the taxes claimed have been paid by the claimant he shall issue warrant to the claimant in the amount due but no greater amount shall be refunded than has been paid into the State

Treasury on any special fund.

(e) All the moneys paid into the Treasury under the provisions of this Article, except the filing fees provided herein, shall be set aside in the special fund known as the Highway Motor Fuel Tax Fund and no part of said fund shall be credited to the Available School Fund until a report is made by the Comptroller to the Treasurer, showing the total maximum amount of refunds that may be required to be paid by the State out of said funds. The Comptroller shall on the 20th day of each month, or as soon thereafter as is possible, compute and ascertain the maximum amount of funds that may be due by the State on the sale of special fuels during the preceding month, upon which a refund may be due, and shall certify to the State Treasurer the Maximum amount, and the Treasurer shall reserve said amount each month out of which to pay refunds and shall not distribute that part of said fund until the expiration of the time in which a refund can be made out of said fund, but as soon as said report has been made by the Comptroller and the maximum amount of refunds determined, he shall deduct said maximum amount from the total taxes paid for such month, and apply the remainder of such as provided by law. If the claimant loses, or for any reason fails to receive warrant after it has been issued by the Comptroller, and upon satisfactory proof of such, the Comptroller may issue claimant duplicate warrant as provided in Article 4365, Revised Civil Statutes of Texas.

So much of said fund is hereby appropriated and set aside as may be necessary to pay the refunds provided for herein. In no event shall any refund be made to any person in excess of the actual amount paid by such person, and the one per cent (1%) deducted originally by the supplier upon the sale or delivery of the special fuels shall be deducted in computing the refund. The Comptroller shall deduct fifty cents (50c) from all such refunds as a filing fee, which fee shall be deducted from the warrant issued in payment of such refund which said filing fee shall be set aside for the use and benefit of the Comptroller in the administration and enforcement of this Article, and for the payment of expenses in furnishing the claim forms and other forms provided for herein, and the same is

hereby appropriated for such purpose. All such filing fees shall be paid out on vouchers and warrants in such manner as may be prescribed by law.

Sec. 9.15 Exceptions to Tax Refunds.

(a) No tax refunds shall be paid to any person on special fuels used in any construction, maintenance or repair work on or in connection with the public highways of this State when and if such work is paid for from any State funds to which special fuels tax collections are allocated or is paid jointly from any such State funds and Federal funds.

(b) The delivery of special fuels into the fuel supply tanks of any tractor, truck-tractor, vehicle, or machine of any kind or description for use (1) in hauling materials, supplies or products over the public highways to or from, or in connection with, any highway construction, maintenance or repair work or (2) for use in mowing the right of way of the public highways, when such work is paid for from State funds or State and Federal funds as above provided, shall constitute and be deemed to mean the delivery of special fuels into the fuel supply tanks of motor vehicles for taxable use.

Sec. 9.16 Prima Facie Presumptions.

(a) Any supplier, dealer or user who shall fail to keep the records, issue the invoices or file the reports required by this Article, shall be prima facie presumed to have sold, delivered or used for taxable purposes all special fuels shown by a duly verified audit by the Comptroller, or any authorized representative thereof, to have been delivered to such supplier, dealer or user and unaccounted for at each place of business or place of storage from which special fuels are sold, delivered or used for any taxable purposes, and the Comptroller is hereby authorized to fix or establish the amount of taxes, penalties and interest due the State of Texas from such records of deliveries or from any records or information available to him and if the tax claim as developed from such procedure is not paid, such claim and any audit made by the Comptroller, or an authorized representative thereof, or any report filed by such supplier, dealer or user, shall be admissible in evidence in any suit of judicial proceedings filed by the Attorney General,

and shall be prima facie evidence of the correctness of said claim or audit; provided that the prima facie presumption of the correctness of the claim may be overcome upon the trial by evidence adduced by said supplier, dealer or user.

(b) A certificate under the seal of the Comptroller executed by said Comptroller or his Chief Clerk, setting forth the terms of any order, rule, regulation, report, bond or other instrument referred to in this Article, and that the same had been adopted, promulgated, or executed and filed with the Comptroller, and was in force and effect at any date or during any period specified in such certificate, shall be prima facie evidence of all such facts, and such certificates shall be admitted in evidence in any action, civil or criminal, involving such order, rule, regulation, report, bond, or other instrument without further proof of such adoption, promulgation, execution or filing, and without further proof of its contents.

Sec. 9.17 Liens.

All taxes, penalties, interest and costs due by any supplier, dealer, or user under the provisions of this Article and all taxes collected by a supplier or dealer and required to be paid to this State, shall be secured by a preferred lien, first and prior to any and all other existing liens, contract or statutory, legal or equitable, and regardless of the time such liens originated, upon all of the property of any supplier, dealer or user, devoted to or used in his business or other operations as a supplier, dealer or user, which property shall include all plants, storage tanks, warehouses, office buildings, pumps, and equipment, vehicle tanks, trucks, trailers, or other vehicles, stocks on hand of every kind and character whatsoever used or usable in such business or other operations including special fuels and the proceeds from the sale or delivery of special fuels and including cash on hand and in banks, accounts and notes receivable, and any and all other property of every kind and character whatsoever and wherever situated, which is devoted to such use, and each tract of land on which such plants, storage tanks and other property is located, or which is used in carrying on such business or other operations.

This lien shall not be valid as

against any "mortgagee" of a "motor vehicle" as those terms are defined in the Certificate of Title Act, provided such mortgagee does not have actual notice of the State's lien and has complied with the provisions of the Certificate of Title prior to the filing by the Comptroller of Public Accounts with the State Highway Department a certificate showing the make, body type and motor number of the motor vehicle upon which a tax lien exists and the amount of the taxes, penalties, interest, and costs due the State. The Comptroller of Public Accounts' certificate is to be filed with the State Highway Department and the State's lien need not be placed of record upon the motor vehicle's certificate of title.

The Comptroller of Public Accounts shall file with the State Highway Department a certificate containing the information above provided in this Section as to any motor vehicle upon which a tax lien exists to secure the payment of the taxes owing by any supplier, dealer or user, and the filing of such certificate by the Comptroller of Public Accounts shall constitute sufficient notice of the existence and the assertion by the State of the Statutory lien to secure the payment of the taxes owing to the State by such supplier, dealer or user, and any mortgagee of any mortgage, made after the filing of such certificate with the State Highway Department, shall be deemed to have notice of such lien, and the State's lien upon such motor vehicle shall continue to be a valid and prior lien as to any mortgagee. But such lien shall not be valid as to any mortgagee of a motor vehicle if the lien of such mortgagee was created and recorded prior to the filing of such certificate by the Comptroller of Public Accounts with the State Highway Commission.

The State Highway Department shall keep a record of the certificates filed by the Comptroller of Public Accounts and it shall charge a fee of One Dollar (\$1) and no more for answering any inquiry directed to its office as to certificates filed by the Comptroller of Public Accounts under the terms of this Article.

Sec. 9.18 Civil and Statutory Penalties.

(a) If any person affected by this Article shall fail or refuse to comply with any provision of this Article or shall violate the same, or shall fail

or refuse to comply with any rule and regulation promulgated hereunder by the Comptroller or shall violate the same, he shall forfeit to the State of Texas as a penalty the sum of not less than Twenty-five Dollars (\$25) nor more than Five Hundred Dollars (\$500). Each day's violation shall constitute a separate offense and incur another penalty which, if not paid shall be recovered in a suit by the Attorney General in a court of competent jurisdiction in Travis County, Texas, or any other court of competent jurisdiction having venue under existing venue Statutes. Provided that in addition to such penalties, if any supplier, dealer or user does not make remittance for any taxes collected, or pay any taxes due the State of Texas by said supplier, dealer or user, within the time prescribed by law said supplier, dealer or user shall upon the first offense forfeit two per cent (2%) of the amount due; and if said taxes are not paid within ten (10) days from the date of notice in writing by the Comptroller that any taxes have not been reported and paid, an additional eight per cent (8%) shall be forfeited; provided that upon each subsequent offense during any calendar year of failing to remit taxes collected or due the State within the time prescribed by law, such supplier, dealer or user shall forfeit twenty-five per cent (25%) of the amount due. All past due taxes and penalties shall draw interest at six per cent (6%) per annum.

(b) The venue of any suit, injunction or other proceedings at law or in equity available for the establishment of collection of any claim for delinquent taxes, penalties, or interest accruing hereunder, and the enforcement of the terms and provisions of this Article, shall be in a court of competent jurisdiction in Travis County, Texas, or in any other court of competent jurisdiction having venue under existing venue Statutes.

Sec. 9.19. Impounding Vehicles.

In order to enforce the provisions of this Article, the Comptroller or his authorized representatives, or any Highway Patrolman of the Department of Public Safety, any Sheriff, Constable and their deputies, or any other peace officer, is empowered to stop any motor vehicle which appears to be operating with special fuels for the purpose of examining the invoice

required to be carried, and examining any permit or copy thereof that may be required to be carried, to take samples from the fuel supply tanks, and for such other investigations as could reasonably be made to determine whether the taxes have been paid or accounted for by a licensed user upon the special fuels being used to propel the motor vehicle upon the public highways of Texas. If after said examination or other investigation it is found the owner or operator of said motor vehicle has not paid said taxes, or does not possess a valid permit as a user to use such special fuels in motor vehicles operating on said public highways, such authorized officers shall impound the motor vehicle, and unless proof is produced within seventy-two (72) hours from the beginning of impoundment that the owner or operator has paid said taxes, and has paid all other taxes established by audit or investigation by the Comptroller, or his authorized representatives, to be due upon the use of special fuels for the propulsion of motor vehicles upon the public highways of Texas, or that said owner or operator holds a valid user's permit to use special fuels for such purposes, the motor vehicle shall be held until all taxes, penalties and interest found to be due the State and all costs of impoundment have been paid, or until said owner or operator has filed bond with the Comptroller payable to the State Treasurer in an amount equal to twice the amount of taxes, penalties, interest and costs found to be due, to guarantee the payment of such liabilities to the State of Texas.

If the taxes, penalties, interest and costs found to be due are not paid, the Comptroller shall certify the claim to the Attorney General who shall file proceedings to foreclose the State's tax lien upon such motor vehicle, or take such other action to recover the amount due the State as provided by law.

Sec. 9.20. Subpoenas.

The Comptroller, or any duly authorized representative under the direction of the Comptroller, shall, for the purpose contemplated by this Article have power to issue subpoenas, compel the attendance of witnesses, administer oaths, certify to official acts, take depositions within or without the State of Texas, as now provided by law, and compel the pro-

duction of pertinent books, accounts, records, and documents.

If any witness refuses to obey such subpoenas or refuses to produce any pertinent books, accounts, records, or documents, named in such subpoena and in the possession or control of said witness, or if any witness in attendance before the Comptroller or one of his authorized representatives refuses without reasonable cause to be examined or to answer any legal or pertinent question, or to produce any book, record, paper, or document when ordered to do so by the Comptroller or his authorized representative, the Comptroller or representative shall certify the facts and the names of the witnesses so failing and refusing to appear and testify, or refusing access to the books, records, papers, and documents, to the district court having jurisdiction of the witness; said Court shall thereupon issue proper summons to said witness to appear before the said Comptroller, or his authorized representatives, at a place designated within the jurisdiction of said Court, on a day to be fixed, to be continued as occasion may require, and give such evidence and open for inspection such books, records, papers, and documents as may be required for the purpose of enforcing the provisions of this Article. Upon failure to obey such summons the Judge before whom the matter shall come for hearing shall examine under oath such witness or person, and such person shall be given an opportunity to be heard; and if the Judge shall determine that such person has refused, without reasonable cause or legal excuse, to be examined or answer a legal or pertinent question, or to produce a book, record, paper, or document, which he was ordered to bring or produce, he shall forthwith punish the offender as for contempt of court.

Subpoenas shall be served and witness fees and mileage paid as in civil cases in the district court in the county to which such witness shall be called. Witnesses subpoenaed at the instance of the Comptroller, or his authorized representatives, shall be paid their fees and mileage by the Comptroller out of funds appropriated to said Comptroller.

The Comptroller may, if necessary to enforce the provisions of this Section, require such number of his representatives as he deems necessary to enforce the provisions hereof to sub-

scribe to the constitutional oath of office, a record of which shall be filed in the office of the Comptroller.

Sec. 9.21. Rules and Regulations. It is hereby made the duty of the Comptroller to collect, supervise, and enforce the collection of all taxes, penalties, interest and costs, due or that may become due under the provisions of this Article, and to that end the Comptroller is hereby vested with all of the power and authority conferred by this Article. The Comptroller shall also have the power and authority to promulgate rules and regulations, not inconsistent with this Article or the Constitutions of this State or the United States, for the enforcement of the provisions of this Article and the collection of all taxes, penalties, interest and costs provided in this Article.

Upon the adoption of any rule and regulation, the Comptroller shall cause the same to be published one time in a newspaper of general circulation in this State and the same shall have the force and effect of law as of the date of publication, unless a subsequent date is specified therein. The publication thereof shall be sufficient notice to all parties.

Sec. 9.22. Allocation of Funds.

Before allocation of the funds collected hereunder is made one per cent (1%) of the gross amount of said fund shall be set aside in the State Treasury in a special fund for the use of the Comptroller in the administration and enforcement of the provisions of this Article and so much of said amount as may be needed is hereby appropriated for said purpose. Any unexpended portion of such fund shall at the end of each fiscal year revert to the respective funds in the proper proportions to which the special fuels taxes are allocated.

Each month the Comptroller shall, after making deductions for refund purposes as provided in Section 9.14 of this Article, and for the administration and enforcement of this Article, allocate and deposit the remainder of the taxes collected under the provisions of this Article, in the proportions as follows: One-fourth ($\frac{1}{4}$) of such taxes shall go to and be placed to the credit of the Available Free School Fund, and three-fourths ($\frac{3}{4}$) of such taxes shall go to and be placed to the credit of the State Highway Fund.

Sec. 9.23. Penalty, Failure to Pay or Conversion of Taxes.

(a) All taxes collected under the provisions of this Article shall be for the use and benefit of the State of Texas and shall not be appropriated or diverted to any other use. Said taxes shall be paid over to the State of Texas at the time and in the manner provided in this Article.

(b) If any supplier or dealer, or any director, officer, agent, employee, trustee, or receiver of such supplier or dealer, or any person, shall willfully fail or refuse to pay over to the State of Texas any such tax fund collected by him under the provisions of this Article, on or before the date such payment is required to be paid under the provisions of this Article, such supplier or dealer, or such director, officer, agent, employee, trustee, or receiver of such supplier or dealer, or such person, shall be guilty of a felony and upon conviction shall be punished by confinement in the State penitentiary for not more than ten (10) years, or by confinement in the county jail for not less than one (1) month nor more than one (1) year, or by a fine of not less than Five Hundred Dollars (\$500) nor more than Ten Thousand Dollars (\$10,000) or by both such fine and jail imprisonment.

(c) If any director, officer, agent, employee, trustee, receiver of any supplier or dealer, or any person, shall fraudulently misapply or convert to his own use any tax fund collected for the State of Texas under the provisions of this Article by such supplier or dealer, or any director, officer, agent, employee, trustee, receiver of such supplier or dealer, or by such person, which said money has come into the possession of or that is in the care of or under the control of such director, officer, agent, employee, trustee, receiver of such supplier or dealer, or of such person, and which said money is required to be paid to the State of Texas under the provisions of this Article, such director, officer, agent, employee, trustee, receiver, or such person shall be guilty of a felony and upon conviction, shall be punished by confinement in the State penitentiary for not more than ten (10) years, or by confinement in the county jail for not less than one (1) month nor more than one (1) year, or by a fine of not less than Five Hundred Dollars

(\$500) nor more than Ten Thousand Dollars (\$10,000), or by both such fine and jail imprisonment.

(d) If the penalties prescribed elsewhere in this Article overlap as to the offenses punishable under Section 9.23 of this Article, then the penalties prescribed in Section 9.23 shall apply and control over all such penalties. Venue of prosecution under Section 9.23 shall be in Travis County, Texas, or in the county where the offense occurred.

Sec. 9.24. Felony Penalties.

If any supplier, dealer or user, or any director, officer, agent, employee, or receiver of such supplier, dealer or user (a) shall sell, deliver or use special fuels upon which taxes are required to be collected or paid to the State of Texas without a valid permit being then and there held by such supplier, dealer or user, or (b) shall fail or refuse to make and deliver to the Comptroller within the time prescribed by law any report required to be made and delivered to the Comptroller by such supplier, dealer or user, or (c) shall knowingly make and deliver to the Comptroller any report required to be made and delivered which is false or incomplete, or (d) shall fail or refuse to keep in Texas for the period of time prescribed by law any records required to be kept in Texas by such supplier, dealer or user, or (e) shall knowingly falsify or make false entry in any records required by law to be kept by such supplier, dealer or user, or (f) shall refuse to permit the Comptroller or any authorized representative of the Comptroller to examine or audit any books or records of such supplier, dealer or user which the Comptroller is authorized by law to examine or audit, or (g) shall refuse to permit the Comptroller or any authorized representative of the Comptroller to inspect or examine any plant, equipment, motor vehicle, material or premises where special fuels are processed, stored, sold, delivered, transported, or used by such supplier, dealer or user, or (h) shall refuse to surrender any motor vehicle for impoundment when such surrender is ordered by a representative of the Comptroller, or any officer authorized by law to impound such motor vehicle, or (i) shall knowingly make any false statement in any claim for a tax refund delivered to or filed with the Comptroller, such supplier, dealer

or user, or such director, officer, agent, employee, or receiver of such supplier, dealer or user, shall be guilty of a felony and upon conviction, shall be punished by confinement in the State penitentiary for not more than five (5) years or by confinement in the county jail for not less than one (1) month nor more than six (6) months, or by a fine of not less than One Hundred Dollars (\$100) nor more than Five Thousand Dollars (\$5,000), or by both such fine and imprisonment.

In addition to the foregoing penalties, a felony conviction for any of the above-named offenses shall automatically forfeit the right of said convicted person to obtain a permit as a supplier, dealer or user for a period of two (2) years from the date final judgment is entered.

If the penalties prescribed elsewhere in this Article overlap as to offenses punishable under this Section, then the penalties prescribed by this Section shall control over all such penalties except the penalties prescribed in Section 9.23 of this Article. Venue of prosecution under this Section shall be in Travis County, Texas, or in the county in which the offense occurred.

Sec. 9.25. Misdemeanor Penalties. (a) If any person shall violate, or fail or refuse to comply with any provision of this Article for which no penalty is provided in Section 9.23 or Section 9.24 of this Article, he shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200).

(b) If any person shall violate, or fail or refuse to comply with any rule and regulation duly promulgated by the Comptroller under provisions of this Article, he shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200).

Sec. 9.26. That Section 14a of Article XVII of Chapter 184, Acts of the Regular Session of the Forty-seventh Legislature, 1941, as added by Section 3 of Article II of Chapter 404, Acts of the Fifty-fourth Legislature, 1955 (compiled as Article 7065b-14a of Vernon's Civil Statutes of Texas), be and the same is hereby amended to be known and numbered hereafter as

Section 14, which shall read as follows:

"Sec. 14. Provided that in lieu of the tax levied by Subsection (a) of Section 2 of this Article, there shall be and is hereby levied and imposed an excise tax of Four Cents (4c) per gallon or fractional part thereof upon the first sale, distribution or use of motor fuel in this State which said tax shall be applicable only when such motor fuel is used or consumed, or is to be used or consumed for the propulsion of transit vehicles owned by a transit company (a) the greater portion of whose business is the transportation of persons within the limits of an incorporated city or town in conveyances designed to transport twelve (12) or more passengers; (b) which holds a franchise from such city or town; (c) whose rates are regulated by such city or town; and (d) which pays to such city or town a tax on its gross receipts. Said taxes shall be collected and paid in the same manner as the taxes levied by Subsection (a) of Section 2 of this Article.

Where the first sale, distribution or use of motor fuel in this State is to or by a transit company, and such company shall furnish to the distributor or seller, or to the Comptroller, as the case may be, an affidavit to the effect that it possesses the aforementioned four (4) characteristics and that it will use such motor fuel only in the operation of its transit vehicles, the distributor or seller, or the Comptroller, as the case may be, shall collect from such transit company only the taxes levied herein.

Where the distributor or seller has collected the tax levied by Section 2(a) of this Article on motor fuel thereafter used by a transit company, such transit company may obtain a refund in the amount of One Cent (1c) per gallon or fractional part thereof by conforming to the refund procedure set forth in Section 13 of this Article, and by furnishing to the Comptroller an affidavit to the effect that it possesses the aforementioned four (4) characteristics and that it has used such motor fuel only in the operation of its transit vehicles."

Sec. 9.27. That Section 26 and Section 27 of Chapter 184, Article XVII, Acts of the Regular Session of the Forty-seventh Legislature, as added by Section 3, Article II, Chapter 404, Acts of the 54th Legislature, 1955, be

and the same are hereby amended to read hereafter as follows:

"Section 26. If any person (a) shall refuse to permit the Comptroller, the Attorney General, or their authorized representatives, to inspect, examine and audit any books and records required to be kept by a distributor, refund dealer, or dealer, or (b) shall refuse to permit said persons to inspect and examine any plant, equipment, materials, or premises where motor fuel is produced, processed, stored, sold, delivered or used, or (c) shall refuse to permit said persons to measure or gauge the contents of all storage tanks, pumps or containers on said premises, or take samples therefrom, or (d) shall conceal any motor fuel for the purposes of violating any provision of this Article, or (e) shall transport motor fuel in a motor vehicle with pipe or tube connection from the cargo tank or container to the carburetor of said motor vehicle, or (f) shall sell or distribute motor fuel from a fuel tank or auxiliary fuel tank with a direct or indirect connection to the carburetor of a motor vehicle, or (g) if any dealer shall fail or refuse to keep in Texas for a period of time required by law, any books or records required to be kept by said dealer, or (h) if any dealer, or the agent or employees of any dealer, shall knowingly make any false entry or fail to make entry in the books and records required to be kept by a dealer, or (i) if any refund dealer shall refuse to surrender his refund dealer's license to the Comptroller upon suspension or cancellation of said license, or (j) shall refuse to surrender to the Comptroller all unissued invoices of exemption upon the suspension or cancellation of said license, or if any person (k) shall fail or refuse to comply with any provision of this Article, or shall violate the same, or (l) shall fail or refuse to comply with any rule and regulation duly promulgated by the Comptroller, or shall violate the same, said person or persons shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200).

"Section 27. (a) Whoever shall knowingly transport in any manner any motor fuel, casinghead gasoline, drip gasoline, natural gasoline, or absorption gasoline, under a false mani-

fest, or (b) whoever shall knowingly transport any of the foregoing named commodities in any quantity, for which a manifest is required to be carried, without then and there possessing or exhibiting upon demand by an authorized officer, a manifest, containing all the information required to be shown thereon, or (c) while transporting any of the foregoing named commodities, shall wilfully refuse to stop the motor vehicle he is operating when called upon to do so by a person authorized hereunder to stop said motor vehicle, or (d) shall refuse to surrender his motor vehicle and cargo for impoundment when ordered to do so by a person authorized hereunder to impound said motor vehicle and cargo, or (e) whoever shall make a first sale, distribution, or use of motor fuels, upon which a tax is required to be paid by law, without then and there holding a valid distributor's permit issued by the Comptroller, or (f) whoever as a distributor shall fail or refuse to make and deliver to the Comptroller a report containing the information required by law to be made and delivered to said Comptroller, or (g) whoever shall knowingly make and deliver to the Comptroller any false or incomplete report required by law to be made and delivered to the Comptroller by a distributor, or (h) whoever as a distributor shall fail or refuse to keep in Texas for the period of time required by law any books and records required to be kept by a distributor, or (i) whoever shall knowingly make any false entry or shall wilfully fail to make entry in any books and records required to be kept by a distributor, or (j) whoever shall wilfully forge or falsify any invoice of exemption prescribed by law, or (k) whoever shall wilfully and knowingly make any false statement in any claim for a tax refund delivered to or filed with the Comptroller, shall be guilty of a felony and upon conviction, shall be punished by confinement in the State Penitentiary for not more than five (5) years or by confinement in the County Jail for not less than one (1) month nor more than six (6) months, or by a fine of not less than One Hundred Dollars (\$100) nor more than Five Thousand Dollars (\$5,000), or by both such fine and imprisonment. In addition to the foregoing penalties, it is herein provided that a felony conviction for any of the abovenamed offenses shall auto-

matically forfeit the right of said convicted person to obtain a permit as a distributor of motor fuel, or as a refund dealer, for a period of two (2) years from the date of such conviction.

"Provided, that if any penalties prescribed elsewhere in this Article shall overlap as to offenses which are also punishable under Section 27 of this Article, then the penalties prescribed in the said Section 27 shall apply and control over all such penalties. Venue of prosecution under Section 27 shall be in Travis County, Texas, or in the county in which the offense occurred."

ARTICLE X

BOAT AND BOAT MOTOR TAX

Section 10.01. As used in this Article, the following words shall have the following meanings unless a different meaning clearly appears from the context:

(a) "Boat" shall mean any and every type of watercraft, other than a seaplane on water, used or capable of being used as transportation on water.

(b) "Boat Motor" shall mean any and every type of marine engine or motor, permanently mounted or detachable, which is used or capable of being used as a means of propelling any boat or watercraft.

(c) "Retailer" shall mean and include every person in this State who manufactures, produces, or in any other manner acquires or possesses boats or boat motors, taxable under this Article for the purpose of making a resale, use, or distribution of the same in this State to the user; and it shall also include every person in this State who ships, transports or imports any boat or boat motor taxable under this Article and makes the first distribution of, use by, or sale to the user of same in this State.

(d) "Person" shall mean and include every individual, firm, association, joint stock company, syndicate, copartnership, corporation, trustee, agency or receiver.

(e) "Distributor" shall mean and include every person other than a retailer who engages in the business of distributing or selling of boats or boat motors within this State. If any distributor shall sell, use or distribute a boat or boat motor to any person not holding a valid permit as required by this Article, such distributor shall

qualify as a retailer and be liable for and shall be required to pay over to the State of Texas, at the time and in the manner herein provided for a retailer, the tax on such boat or boat motor.

(f) "Comptroller" shall mean the Comptroller of Public Accounts of the State of Texas.

(g) "Retail Sale" shall mean any transfer, exchange or barter of a boat or boat motor taxable under this Article, conditional or otherwise, in any manner or by any means whatsoever, to the user and shall include conditional sales, installment lease sales, and any other transfer of a boat or boat motor taxable under this Article in which the title is retained as security for payment of the purchase price and is intended to be transferred later. It shall also mean the first sale or distribution in this State to the user of any boat or boat motor taxable under this Article which has been imported or brought into the State, or which has been manufactured, constructed, produced, or assembled in Texas, or acquired in any manner without the tax having been previously paid thereon in Texas.

(h) "Distribution" shall mean and include any transaction other than a retail sale in which ownership or title to any boat or boat motor taxable under this Article is passed to a user.

(i) "Use" shall mean the keeping or retention in this State of any boat or boat motor by the user for the purpose of using such boat or boat motor or the exercise of any right or power over any such boat or boat motor incident to the ownership thereof. The term "use" shall not include the storing, keeping, or retention of boats or boat motors in any place of business where boats or boat motors are sold, or offered for sale, or demonstrated for sale in the regular course of business conducted at such places, nor shall the said term include boats or boat motors which are crated and stored in Texas for sale and delivery outside the State of Texas.

(j) "Retail Sale Price" shall mean the actual price, valued in money, paid or required to be paid, as a consideration in the purchase or acquisition of any boat or boat motor taxable under this Article by the user, and without any deductions being made therefrom on account of cost of materials, labor, transportation charges, or any expenses whatsoever, including allowance for any trade-ins.

(k) "User" shall mean and include every person who purchases, uses, or acquires in any other manner any boat or boat motor taxable under this Article for his own use in Texas and who does not purchase or acquire same for the purpose of resale.

Sec. 10.02. (a) There is hereby levied and shall be collected and paid upon the sale, distribution, or use of boats and of boat motors in this State an excise tax equal to one and one-half per cent (1.5%) of the retail price of each such boat or boat motor, sold, distributed or used in the State of Texas. Every retailer who makes a sale or distribution of a boat or a boat motor in the State of Texas to the user shall add the amount of said tax to the selling price which said tax shall be collected from the purchaser or recipient of such boat or boat motor at the time of sale or distribution, and said tax shall be reported and paid to the State of Texas as hereinafter provided.

(b) It is expressly provided, however, that the tax imposed herein shall not apply to a boat or a boat motor used or acquired for use in commercial pursuits.

(c) It is the intent of this Article that the tax herein, as measured by One and one-half per cent (1.5%) of the retail sale price of any boat and of any boat motor in this State shall constitute an excise tax imposed upon any person using said boat or boat motor in this State, and the granting of a permit to retailers to collect the tax for and on behalf of the State of Texas shall be deemed to establish a fiduciary relationship.

Sec. 10.03. The method of administration and enforcement of this Article shall be the same as the method provided for the administration and enforcement of the tax imposed by Chapter 522, Acts of the 54th Legislature, Regular Session, 1955, as amended, the same being compiled as Article 70471-1, Vernon's Annotated Civil Statutes of Texas. All reports required of retailers under Chapter 522, Acts of the 54th Legislature, Regular Session, 1955, as amended, shall be required of all retailers selling boats and boat motors taxable under this Article, and the Comptroller shall have the same remedies as are provided in Chapter 522, Acts of the 54th Legislature, as amended, to insure that all such reports are filed and the tax levied herein is paid; all records required to be kept under

Chapter 522, Acts of the 54th Legislature, Regular Session, 1955, as amended, shall be kept under this Article; all permits required of retailers under Chapter 522, Acts of the 54th Legislature, Regular Session, 1955, as amended, shall be required for retailers selling boats and boat motors taxable under this Article, and all such permits shall be secured in the manner provided in Chapter 522, Acts of the 54th Legislature, Regular Session, 1955, as amended, and all such permits shall be for a like term as is provided for permits under Chapter 522, Acts of the 54th Legislature, Regular Session, 1955, as amended, and all fees for such permits shall be the same as charged for comparable permits under Chapter 522, Acts of the 54th Legislature, Regular Session, 1955, as amended, and all penalties for failure to obtain or renew such permits shall be the same as provided for failure to obtain or renew a permit under Chapter 522, Acts of the 54th Legislature, Regular Session, 1955, as amended, and all other requirements such as for display of such permits, privileges, penalties and provisions applying to such permits under Chapter 522, Acts of the 54th Legislature, Regular Session, 1955, as amended, shall apply to permits under the terms of this Article; every retailer handling boats and motors taxable under this Article shall be required to execute and file a bond with the Comptroller in the same manner and amount as is required of retailers under Chapter 522, Acts of the 54th Legislature, Regular Session, 1955, as amended, and all requirements for cancellation of said bond, and all requirements for conditions of said bond shall be the same as under Chapter 522, Acts of the 54th Legislature, Regular Session, 1955, as amended; all taxes collected by retailers under this Article shall be paid at the same time and in the same manner as is required under Chapter 522, Acts of the 54th Legislature, Regular Session, 1955, as amended; all presumptions of violation provided in Chapter 522, Acts of the 54th Legislature, 1955, as amended, shall be presumptions of violation occurring under this Article; all violations of this Article shall be considered as violations of Chapter 522, Acts of the 54th Legislature, Regular Session, 1955, as amended, and shall be punished in the same manner as provided therein; all penalties, interest and

costs of auditing authorized under Chapter 522, Acts of the 54th Legislature, Regular Session, 1955, as amended, shall be authorized under this Article; all taxes, penalties, interest and costs of auditing under the terms of this Article shall constitute a preferred lien in exactly the same manner as is provided under Chapter 522, Acts of the 54th Legislature, 1955, as amended.

Sec. 10.04. The Comptroller shall have authority to make and promulgate such rules and regulations as he deems necessary for the efficient and effective administration and enforcement of this Article.

Sec. 10.05. Two and one-half per cent (2½%) of the gross amount of taxes, permit and license fees and other funds derived under the provisions of this Article shall be set aside in a special fund subject to the use of the Comptroller and so much of said fund as may be necessary shall be expended in the administration and enforcement of this Article and so much of the proceeds of two and one-half per cent (2½%) of said tax and funds shall be and the same is hereby allocated for said purposes, same to be paid monthly as needed; any unexpended portion of said funds so specified shall at the end of each biennium be paid in the proper proportion to the fund to which the tax shall be allocated.

ARTICLE XI

RADIO, TELEVISION, PHONO- GRAPH AND COMPONENT PARTS TAX

Section 11.01. That Section 1 of Chapter 522, Acts of the 54th Legislature, Regular Session, 1955, is hereby amended so as to hereafter read as follows:

"Section 1. (a) 'Retailer' shall mean and include every person in this State who manufactures, produces, or in any other manner acquires or possesses the sets, instruments, articles or things taxable under this Chapter for the purpose of making a resale, use, or distribution of the same in this State to the user; and it shall also include every person in this State who ships, transports or imports any set, instrument, article or thing taxable under this Chapter and makes the first distribution of, use by, or sale to the user of same in this State.

(b) 'Person' shall mean and include every individual, firm, associa-

tion, joint stock company, syndicate, copartnership, corporation, trustee, agency or receiver.

(c) 'Distributor' shall mean and include every person other than a retailer who engages in the business of distributing or selling radios, television sets, phonographs and/or component parts within this State. If any distributor shall sell, use or distribute a radio, television set, phonograph or component part to any person not holding a valid permit as required by this Act, said distributor shall qualify as a retailer and be liable for and shall be required to pay over to the State of Texas, at the time and in the manner herein provided for a retailer, the tax on such radio, television set, phonograph and component part.

(d) 'Radios' shall mean the apparatus or devices commonly known as radios and radio receiving sets and shall include any instrument, apparatus or mechanical contrivance constructed, assembled or designed to receive oral, musical and similar sound broadcasts transmitted by radio broadcasting stations and shall include all sub-assemblies, devices, or instruments designed to be used in conjunction with other devices which when combined will constitute a device defined as a radio under this section.

(e) 'Television Sets' shall mean the apparatus or devices commonly known and sold as television sets or TV sets, and shall include any instrument, apparatus or mechanical contrivance constructed, assembled or designed to receive television broadcasts transmitted or projected to such sets by television broadcasting stations or systems. Television sets shall also mean and include all sub-assemblies, devices, or instruments for the reproduction of sound and/or visual information from tuning devices or electronic tape recordings; devices designed for the amplification of sound and/or visual information received or reproduced by such devices; one or more units designed to be used in conjunction with other devices which when combined will constitute a device defined as a television set under this section.

(f) 'Phonographs' shall mean the apparatus or devices, either mechanical or electrical, commonly known and sold as phonographs, including record players, high-fidelity phonographs and stereophonic phonographs, and shall also include all sub-assemblies, devices or instruments designed for the

reproduction of sound from tuning devices, recordings of tape, records or wire; devices designed for the amplification of sound received or reproduced by such devices; or one or more devices designed to be used in conjunction with other devices which when combined will constitute a phonograph.

(g) 'Component part' shall mean any mechanical or electronic apparatus, equipment, device or electronic part or combination thereof, and shall also include any metal, wood, or plastic housing or cabinet built or manufactured to contain a radio, television, or phonograph, or any other apparatus, equipment, device, or part as may be used in the assembly, installation, maintenance or testing of radios, television sets or phonographs as defined under this Chapter.

(h) 'Comptroller' shall mean Comptroller of Public Accounts of the State of Texas.

(i) 'Retail Sale' shall mean any transfer, exchange or barter of a set, instrument, article or thing taxable under this Section, conditional or otherwise, in any manner or by any means whatsoever, to the user and shall include conditional sales, installment lease sales, and any other transfer of a set, instrument, article or thing taxable under this Section in which the title is retained as security for payment of the purchase price and is intended to be transferred later. It shall also mean the first sale or distribution in this State to the user of any set, instrument, article or thing taxable under this Section which has been imported or brought into the State, or which has been manufactured, constructed, produced, or assembled in Texas, or acquired in any manner without the tax having been previously paid thereon in Texas.

(j) 'Distribution' shall mean and include any transaction other than a retail sale in which ownership or title to any set, instrument, article or thing taxable under this Section is passed to a user.

(k) 'Use' shall mean the keeping or retention in this State of any radio, television set, phonograph or component part by the user for the purpose of viewing or showing any broadcast received by or projected to such radio or television set by any broadcasting station or system, or the exercise of any right or power over any such radio, television set, phonograph or component part incident to the

ownership thereof. The term 'use' shall not include the storing, keeping, or retention of radios, television sets, phonographs or component parts in any place of business where radios, television sets, phonographs or component parts are sold, or offered for sale, or demonstrated for sale in the regular course of business conducted at such places, nor shall the said term include radios, television sets, phonographs or component parts which are crated and stored in Texas for sale and delivery outside the State of Texas.

(l) 'Retail Sale Price' shall mean the actual price, valued in money, paid, or required to be paid, as a consideration in the purchase or acquisition of any set, instrument, article or thing taxable under this Section by the user, and without any deductions being made therefrom on account of cost of materials, labor, transportation charges, or any expenses whatsoever, including allowance for any trade-ins.

(m) 'User' shall mean and include every person who purchases, uses, or acquires in any other manner any set, instrument, article or thing taxable under this Section for his own use in Texas and who does not purchase or acquire same for the purpose of resale."

Section 11.02. Subsections (a) and (b) of Section 2 of Chapter 522, Acts of the 54th Legislature, Regular Session, 1955, are hereby amended so as to hereafter read as follows:

"(a) There is hereby levied and shall be collected and paid upon the sale, distribution, or use of radios, television sets, phonographs and component parts in this State an excise tax equal to two and two-tenths per cent (2.2%) of the retail sale price of each such radio, television set, phonograph or component part sold, distributed or used in Texas. Every retailer who makes a sale or distribution of a radio, television set, phonograph or component part in Texas to the user shall add the amount of said tax to the selling price which said tax shall be collected from the purchaser or recipient of such radio, television set, phonograph or component part at the time of such sale or distribution, and said tax shall be reported and paid to the State of Texas as provided in Section 3 of this Act.

From and after the effective date of this Act every person who imports or in any other manner acquires for

use in Texas a radio, television set, phonograph or component part upon which said tax has not been theretofore paid to the State of Texas shall, for the purposes of this Act, be constituted as a retailer and shall report and pay said tax, equal to two and two-tenths per cent (2.2%) of the retail sale price thereof, to the State of Texas at the time and in the manner hereinafter provided.

It is expressly provided, however, that the tax imposed herein shall not apply to (1) radios or component parts used or acquired for use by police officers or other law enforcement agencies to receive short-wave broadcasts, (2) 'Radios,' 'Television Sets,' 'Phonographs' and 'Component parts' as defined in this Act used by holders of a valid license or permit that is issued by the 'Federal Communications Commission' in the operation of the equipment for transmission and reception as contemplated under the terms of said license or permit, and (3) radios installed in new motor vehicles upon which a tax imposed by Article VI, Section 6.01, has been paid or is required to be paid.

(b) It is the intent of this Act that that the tax herein, as measured by two and two-tenths per cent (2.2%) of the retail sale price of radios, television sets, phonographs and component parts in Texas, shall constitute an excise tax imposed upon persons using said radios, television sets, phonographs or component parts, and the granting of a permit to retailers to collect tax or taxes for and in behalf of the State of Texas, shall be deemed to establish a fiduciary relationship."

Section 11.03. Section 3 of Chapter 522, Acts of the 54th Legislature, Regular Session, 1955, is hereby amended so as to hereafter read as follows:

"Section 3. (a) Every retailer who shall be required to collect the tax levied by Section 2 of this Act upon the sale or distribution of radios, television sets, phonographs and component parts in this State, or who shall be required to pay the tax levied herein upon any radio, television set, phonograph or component part used by said retailer, shall upon the last day of the month following the calendar quarter remit or pay over to the State of Texas at the office of the Comptroller at Austin, Travis County, Texas, the amount of such tax required to be collected during the pre-

vious quarter, and the amount of tax required to be paid upon any radio, television set, phonograph or component part used by said retailer during said preceding quarter, and at the same time such retailer shall make and deliver to the Comptroller at his office in Austin, Travis County, Texas, a report properly sworn to and executed by such retailer, or his representative in charge, which shall show the date said report was executed, the name and address of said retailer, and the quarter which the report covers, and shall show separately by units and value in money the radios, television sets, phonographs and component parts on hand at the beginning and at the end of the quarter, and complete information on all radios, television sets, phonographs and component parts handled during the quarter, including: value of radios, television sets, phonographs and component parts received in interstate commerce; value of radios, television sets, phonographs and component parts purchased or received in intrastate commerce, reflecting separately the number of units and value received with the tax paid and the number and value received without the tax having been paid; radios, television sets, phonographs and component parts and value manufactured or assembled in Texas; radios, television sets, phonographs and component parts and value sold in interstate commerce; radios, television sets, phonographs and component parts and value returned to the manufacturer; radios, television sets, phonographs and component parts and value lost by fire or other accident; and radios, television sets, phonographs and component parts and value used for taxable purposes by the retailer and his representatives, and shall include gross value of retail sales of all electronic vacuum tubes, transistors, semi-conductors and all electronic parts used in the installation or maintenance of radios, television sets and phonographs as defined in this Act. Provided that where a qualified retailer has not sold, used or distributed any radio, television set, phonograph, or component part during any quarter or part thereof, he shall nevertheless file with the Comptroller the report required herein setting forth such fact or information. Provided further, that the Comptroller may prepare and furnish a form prescribing the order in which the in-

formation required herein shall be set up on said quarterly report, but the failure of any retailer to obtain such form from said Comptroller shall be no excuse for the failure to file a report containing all the information required to be reported herein. Every retailer, at the time of making said report, shall attach legal tender thereto or make proper form of money order or exchange payable to the State Treasurer in amount of tax for the period covered by the report.

(b) If any retailer shall fail to remit proper taxes collected upon the sale or distribution of any radio, television set, phonograph and/or component part, the Comptroller may employ auditors or other persons to ascertain the correct amount due, and if such taxes have not been properly remitted and paid to the State of Texas, the retailer shall pay as additional penalty any reasonable expenses incurred by the Comptroller in such audit.

(c) When it shall appear that a retailer to whom the provisions of this Act shall apply has erroneously reported and paid more taxes than were due the said State of Texas upon any radios, television sets, phonographs and component parts during any tax-paying period, either on account of a mistake of fact or law, it shall be the duty of the Comptroller to credit the total amount of taxes due by such retailer for the current period with the total amount of taxes so erroneously paid. Such credit shall be allowed before any penalty and interest shall be applicable."

Section 11.04. Section 5 of Chapter 522, Acts of the 54th Legislature, Regular Session, 1955, is hereby amended so as to hereafter read as follows:

"Section 5. (a) From and after the effective date of this Act, all retailers of radios, television sets, phonographs and component parts in this State now engaged or who desire to become engaged in the sale, use or distribution of radios, television sets, phonographs, and component parts upon which the tax levied by Section 2 of this Act, shall file a duly acknowledged application for a radio, television set, phonograph and component part retailer's permit, which shall be non-assignable, with the Comptroller, said application to be accompanied by a fee of Fifteen Dollars (\$15.), which said fee is hereby

allocated and set aside for the use and benefit of the Comptroller in the administration of said tax and permits and is in addition to the funds appropriated in the General Appropriation Bill. Said applications to be on a form prescribed by the Comptroller, to be furnished upon written request, the failure to furnish which shall be no excuse for the failure to file the same unless an absolute refusal is shown. An application shall be filed and a permit obtained for each place of business owned or operated by a retailer. Said form shall set forth the name under which such retailer transacts or intends to transact such business as retailer, the principal office, residence, or place of business in Texas, and if other than an individual, the principal officers of a corporation or the members of a partnership or association and their office, street, or post office addresses. The Comptroller may require in said application such other information as he may desire. No retailer shall make a sale, use, or distribution of radios, television sets, phonographs and component parts until such application has been filed and a permit has been obtained.

(b) Upon receipt of the application and the bond hereinafter provided for, the Comptroller shall issue to every retailer a non-assignable, consecutively numbered permit authorizing the sale, use, or distribution of radios, television sets, phonographs and component parts in this State from the date of the issuance of said permit, until and including the following August 31st. On or before September 1st of each year, and before any retailer shall make a sale, use, or distribution of radios, television sets, phonographs and component parts or engage in selling radios, television sets, phonographs and component parts in this State after August 31st, an application shall be filed and a permit obtained for the fiscal year. Said permit shall provide that the same is revocable and shall be cancelled upon violation of any provisions of this Act, or any rule or regulation adopted by the Comptroller. If such permit is cancelled or suspended, said retailer shall not sell, use, or distribute radios, television sets, phonographs and component parts upon which a tax is required to be paid until a new permit is granted or the original permit is reinstated. Provided, however, that no permit shall be issued or reinstat-

ed where it appears from a duly verified audit made as herein provided by an authorized representative of the Comptroller that the applicant is delinquent in the remittance or payment of any radio, television set, phonograph and component part tax, penalty, or interest under the provisions of this Act."

Section 11.05. Section 6 of Chapter 522, Acts of the 54th Legislature, Regular Session, 1955 is hereby amended so as to hereafter read as follows:

"Sec. 6. (a) Before any permit shall be issued and before engaging in the sale, use or distribution of radios, television sets, phonographs and component parts upon which a tax is required to be paid, in Texas, every retailer shall execute and file with the Comptroller a good and sufficient surety bond, which shall run concurrently with the permit required of a retailer to be obtained. The said bond shall be signed by the said retailer and a good and sufficient surety company or companies authorized to do business in this State, to be approved by the Comptroller, and in an amount to be prescribed by the Comptroller but in no event shall said bond be less than One Hundred Dollars (\$100). The said bond shall be payable to the State of Texas, and conditioned upon the full, complete, and faithful performance by the retailer of all the conditions and requirements imposed upon him by this Act, or the rules and regulations of the Comptroller promulgated hereunder, on a form to be prescribed by the Comptroller expressly providing for the performance of said obligations, and the remittance and/or payment at Austin, Travis County, Texas, of all taxes collected and required to be collected for the use and benefit of the State, all taxes due upon the use of radios, television sets, phonographs or component parts by said retailer, and all costs, penalties, and interest provided in this Act, provided, however, that in any event the total of all recoveries under such bond for any and all breaches of its conditions occurring at any time while it remains in force to support a permit, shall not for any fiscal year exceed the penal sum named therein; provided further, that any such bond, continuous in form, may be, if sufficient and acceptable to the Comptroller, continued in effect by a renewal certificate,

and, if so continued in effect, shall be sufficient to support the issuance of any new permit, and provided further, that the said renewal certificates, as, if and when issued, shall have all the force and effect of the original bond for the fiscal year for which said renewal certificate is issued. The amount of any bond required of any retailer shall be fixed by the Comptroller and additional bond may be required by the Comptroller at any time an existing bond becomes insufficient, unsatisfactory, or unacceptable. However, the retailer may demand a reduction of his bond after six (6) months from the effective date thereof to a sum to be not more than two (2) times the highest tax said retailer has collected and paid to the State for any quarter during preceding six (6) months, but which shall never be less than the minimum aforesaid.

Provided that wherever any person imports for his own use in Texas, a radio, television set, phonograph or component part and pays the tax to the State of Texas forthwith and before such radio, phonograph and television set is used in Texas, the Comptroller may waive the requirement for furnishing bond and obtaining a permit to use said units in Texas.

(b) The Comptroller shall have the right, if, in his opinion, the amount of any existing bond shall become insufficient, or any surety on a bond shall become unsatisfactory or unacceptable, to require the filing of a new or an additional bond. When said new bond has been furnished, the Comptroller shall cancel the bond for which said new bond is substituted. No recoveries or execution of any new bond may be demanded when any new permit is issued or revived, but no revocation or revival shall affect the validity of any bond. Should any retailer fail or refuse to supply a new or additional bond within ten (10) days after demand, said retailer's permit shall be cancelled by the Comptroller.

(c) Any surety on any bond furnished by any retailer as above provided shall be released and discharged from any and all liability to the State of Texas accruing on such bond after the expiration of thirty (30) days from the date upon which such surety shall have lodged with the Comptroller written request to be released and discharged. Provided, however, that such

request shall not operate to relieve, release, or discharge such surety from any liability already accrued, or which shall accrue before the expiration of said thirty-day period. The Comptroller shall promptly on the receipt of notice of such request notify the retailer who furnished such bond, and unless such retailer shall within fifteen (15) days from the date of said notice, file with the Comptroller a new bond with a surety company duly authorized to do business under the laws of the State, in the amount and form hereinbefore in this Act provided, the Comptroller shall proceed to cancel the permit of said retailer in the manner herein provided. If such new bond shall be furnished by said retailer as above provided, the Comptroller shall cancel and surrender the bond for which such new bond is substituted.

(d) In lieu of giving a bond, any retailer may deposit in the Suspense Account of the State Treasury money in the amount of the bond that may be required, which shall never be released until a bond is executed in lieu thereof, or until the Comptroller has made an audit of the retailer's records and authorized the same released. Provided further, that suit may be filed against any surety on any bond, without first resorting to or exhausting the assets of said retailer, or without making said retailer, as principal obligor in said bond, a party to said suit."

Sec. 11.06. Section 8 of Chapter 522, Acts of the 54th Legislature, Regular Session, 1955, is hereby amended so as to hereafter read as follows:

"Sec. 8. Every retailer shall keep in Texas for a period of two (2) years for the inspection at all times of the Comptroller and the Attorney General or their authorized representatives, a complete record of all purchases and sales of radios, television sets, phonograph and component parts, and his records shall show the date of receipt, and name and address of the person from whom purchased, to whom sale was made, the means of delivery, and the quantity in units and value of all such radios, television sets, phonographs and component parts. Also it shall show all sales of the same as and when made from stocks on hand, or direct from the manufacturer."

Sec. 11.07. Section 10 of Chapter 522, Acts of the 54th Legislature, Regular Session, 1955, is hereby amended so as to hereafter read as follows:

"Section 10. The Comptroller, or any duly authorized representative of said Comptroller, is hereby authorized to cancel, or to refuse the issuance, extension, or reinstatement of any radio, television set, phonograph and component parts retailer's permit as provided under the terms of this Act, to any person who has violated or has failed to comply with any duly promulgated rule and regulation of the Comptroller or any of the provisions of this Act, including any of the following offenses, which may be applicable to such permittee: (a) failure or refusal to remit or pay to the State of Texas any tax levied herein, which said tax is shown to have accrued and to be owing to said State by a duly verified audit made by an authorized representative of the Comptroller from any report filed with said Comptroller or from any books or reports required to be kept or any books or records authorized to be audited by the provisions of this Act, (b) failure to file any return or report required under the provisions of this Act; (c) the making and filing with the Comptroller any false or incomplete return or report required under the provisions of this Act; (d) failure to keep any books and records for the period and in the manner required to be kept; (e) the falsifying, destroying, mutilating, removing from the State, or secreting any such books and records; (f) refusal to permit the Comptroller, Attorney General, or their authorized representatives, to inspect, audit, and examine any books and records required herein to be kept, or any pertinent records that may be kept, or to inspect any premises said persons are authorized herein to inspect; (g) the engaging in any business requiring a permit under the provisions of this Act, without obtaining and possessing a valid permit.

Before any permit may be cancelled or the issuance, reinstatement, or extension thereof refused, the Comptroller shall give the owner of such permit, or applicant therefor not less than five (5) days notice of a hearing at the office of the Comptroller, in Austin, Travis County, Texas, granting said owner or applicant an opportunity to show cause before said Comp-

troller, or his duly authorized representative, why such action should not be taken. Said notice shall be in writing and may be mailed by United States registered mail to said owner or applicant, at his last known address, or may be delivered by a representative of the Comptroller to said owner or applicant, and no other notice shall be necessary. The Comptroller may prescribe his own rules and procedure and evidence for such hearings.

If, after said hearing or opportunity to be heard, the permit is cancelled by the Comptroller, or his duly authorized representative, all taxes which have been collected or which have accrued, although said taxes are not then due and payable to the State, except by the provisions of this Section, shall become due and payable concurrently with the cancellation of such permit, and the permittee shall forthwith make a report covering the period of time not covered by preceding reports filed by said permittee, and ending with the date of cancellation and shall remit and pay to the State of Texas, all taxes, which have been collected and which have accrued from the sale, use, or distribution of radios, television sets, phonograph and component parts in this State.

After being given notice of any such order of cancellation, it shall be unlawful for any person to continue to operate his business under any such cancelled permit.

An appeal from any order of the Comptroller, or his duly authorized representative, cancelling or refusing the issuance, extension, or reinstatement of any permit may be taken to the District Court of Travis County, Texas, by the aggrieved permittee or applicant. The trial shall be de novo under the same rules as ordinary civil suits with the following exceptions, which shall be considered literally, viz.: (1) all appeals shall be perfected and filed within thirty (30) days after the effective date of the order, decision, or ruling of the Comptroller or his duly authorized representative; (2) such proceedings shall have precedence over all other causes of a different nature; (3) all cases shall be tried within thirty (30) days from the filing thereof; (4) the order, decision, or ruling of the Comptroller, or his duly authorized representative, may be suspended or modified by the court pending a trial on the merits."

Sec. 11.08. Section 12 of Chapter 522, Acts of the 54th Legislature, Regular Session, 1955, is hereby amended so as to hereafter read as follows:

"Sec. 12. If any person affected by this Act (a) shall fail to pay to the State of Texas any tax due and owing under the provisions of this Act, or (b) shall fail to keep for the period of time provided herein any books or records required to be kept, or (d) shall mutilate, destroy, secrete, or remove from this State, any such books or records, or (e) shall refuse to permit the Comptroller, the Attorney General, or their authorized representative to inspect and examine any books or records, incident to the conduct of his business that may be kept, or (f) shall make, deliver to, and file with the Comptroller a false or incomplete return or report, or (g) shall refuse to permit the Comptroller, or his authorized representatives, to inspect any premises where radios, television sets, phonographs and component parts are produced, made, assembled, stored, transported, sold, or offered for sale or exchange, or (h) shall fail to make and deliver to the Comptroller any return or report required herein to be made and filed or (i) shall fail or refuse to comply with any provision of this Act or shall violate the same, or (j) shall fail to comply with any rule and regulation promulgated hereunder by the Comptroller, or violate the same, he shall forfeit to the State of Texas as a penalty the sum of not less than Twenty-five Dollars (\$25) nor more than Five Hundred Dollars (\$500). Each day's violation shall constitute a separate offense and incur another penalty, which, if not paid shall be recovered in a suit by the Attorney General in a court of competent jurisdiction in Travis County, Texas, or any other court of competent jurisdiction having venue under existing venue Statutes. Provided that in addition to the penalties shown, if any retailer does not make remittance for any taxes collected, or pay any taxes due the State of Texas by said retailer, within the time prescribed by law, said retailer shall forfeit to the State ten per cent (10%) of the amount due. All past due taxes and penalties shall draw interest at the rate of six percent (6%) per annum.

The venue of any suit, injunction, or other proceeding at law or in equity available for the establishment or col-

lection of any claim for delinquent taxes, penalties, or interest accruing hereunder and the enforcement of the terms and provisions of this Act, shall be in a court of competent jurisdiction, in Travis County, Texas, or in any other court having venue under existing venue Statutes."

Sec. 11.09. Section 13 of Chapter 522, Acts of the 54th Legislature, Regular Session, 1955, is hereby amended so as to hereafter read as follows:

"Sec. 13. Before any diversion or allocation of the radio, television set, phonograph and component part tax collected and paid under the provisions of this Act is made, two per cent (2%) of the gross amount of said tax shall be set aside in the State Treasury in a special fund, subject to the use of the Comptroller in the administration and enforcement of the provisions of this Act, and so much of said proceeds of two per cent (2%) of the radio, television set, phonograph and component part tax paid quarterly as may be needed in such administration and enforcement, be and is hereby appropriated for said purpose, provided, however, that should the Legislature make detailed appropriations from such fund for enforcement purposes such appropriation shall control.

Except as herein provided in this Act, one-fourth (1/4) of net revenue derived from this Act shall go to, and be placed to the credit of, the Available Free School Fund; and three-fourths (3/4) of the net revenue derived from this Act shall go to and be placed to the credit of the Clearance Fund, established by Article XX of House Bill No. 8, Chapter 184, Acts of the Forty-seventh Legislature, Regular Session, 1941, as amended."

Sec. 11.10. Section 14 of Chapter 522, Acts of the 54th Legislature, Regular Session, 1955, is hereby amended so as to hereafter read as follows:

"Sec. 14. (a) Whoever shall make a retail sale, distribution, or use of radios, television sets, phonographs and component parts upon which a tax is required to be paid by law, without then and there holding a valid retailer's permit issued by the Comptroller, or (b) whoever as a retailer shall fail or refuse to make and deliver to the Comptroller a report containing the information required by law to be made and delivered to said

Comptroller, or, (c) whoever shall knowingly make and deliver to said Comptroller any false or incomplete report required by law to be made and delivered to the Comptroller by a retailer, or (d) whoever as a retailer shall fail or refuse to keep in Texas for the period of time required by law any books and records required to be kept by a retailer, or (e) whoever shall knowingly make any false entry or shall willfully fail to make entry in any books and records required to be kept by a retailer, shall be guilty of a misdemeanor and upon conviction, shall be punished by confinement in the county jail for not less than one (1) month nor more than one (1) year or by a fine of not less than One Hundred Dollars (\$100), or more than Five Thousand Dollars (\$5,000) or by both such fine and imprisonment. In addition to the foregoing penalties, it is herein provided that a misdemeanor conviction for any of the above-named offenses shall automatically forfeit the right of said convicted person to obtain a permit as a retailer of radios, television sets, phonographs and component parts for a period of six (6) months from the date of such conviction."

ARTICLE XII

DRIVERS' LICENSE FEES

Section 12.01. That Section 19 of Chapter 173, Acts of the 47th Legislature, Regular Session, 1941, as last amended by Section 2 of Chapter 108, Acts of the 54th Legislature, Regular Session, 1955, be amended so as to hereafter read as follows:

"Sec. 19. Fees for license.

The fees as provided for in this Act shall be as follows:

For a chauffeur's license, Five Dollars (\$5); for a commercial operator's license, Four Dollars (\$4); for an operator's license, Four Dollars (\$4)."

Sec. 12.02. That Section 15 of Chapter 173, Acts of the 47th Legislature, Regular Session 1941, as last amended by Section 3 of Chapter 21, Acts of the 55th Legislature, Second Called Session, 1957, be amended so as to hereafter read as follows:

"All fees and charges required by this Act and collected by any officer or agent of the Department shall be remitted without deduction on Monday of each week to the Department at Austin, Texas, and One Dollar (\$1)

derived from each chauffeur's license fee, and One Dollar (\$1) derived from each commercial operator's license fee, and Two Dollars (\$2) derived from each operator's license fee shall be deposited in the State Treasury in the General Revenue Fund of the State; and the remainder of all fees so collected shall be deposited in the State Treasury in a fund to be known as the Operator's and Chauffeur's License Fund.

Fees and charges deposited in the Operator's and Chauffeur's License Fund under the provisions of this Act may, upon appropriation by the Legislature be used by the Texas Department of Public Safety for the payment of salaries, purchase of equipment and supplies, maintenance, and any and all other necessary expenses incident to the operation of the Texas Department of Public Safety in carrying out the duties as are by law required of such Department. Any remaining balance in the Operator's and Chauffeur's License Fund on September 1 of each and every year shall remain in such Fund and shall be available for appropriation by the Legislature for the maintenance and support of the Texas Department of Public Safety as set forth hereinabove."

ARTICLE XIII ALLOCATION

Section 13.01. All revenue, other than that part allocated for enforcement purposes, derived from the taxes levied in this Act shall be allocated in the following manner:

(a) The revenue derived from Articles I, II, IV, V and XI shall be allocated one-fourth (1/4) to the Available School Fund and three-fourths (3/4) to the Omnibus Tax Clearance Fund.

(b) The revenue derived from Articles III, VI, VII and X shall be allocated to the General Revenue Fund of the State.

(c) The revenue derived from Article VIII shall be allocated as provided by Section 6 of Article III, Chapter 495, Acts of the Forty-fourth Legislature, Third Called Session, 1936, as amended, compiled as Article 7047a-19 of Vernon's Annotated Civil Statutes of Texas.

(d) The revenue derived from Article IX shall be allocated as provided by Section 9.22 of Article IX of this Act.

(e) The revenue derived from Article XII shall be allocated as provided by Section 12.02 of Article XII of this Act.

ARTICLE XIV

Section 14.01. Applicability of Present Tax.

All sales, occupation, excise, license fees or other taxes, penalties and interest accruing to the State of Texas prior to the effective date of this Act shall not be affected by the passage of this Act but shall be and remain valid and binding obligations to the State of Texas, and all taxes, fines, penalties and interest accruing under the provisions of prior or existing occupation, excise, or other tax laws are hereby expressly preserved and declared to be legal and valid obligations to the State of Texas. Neither shall the expiration of prior laws affect offenses committed or prosecutions begun under the terms of prior laws, and prosecutions may be conducted under the law as it existed at the time of the commission of the offense.

Sec. 14.02. Limitation on Tax Levy.

No city, county or other political subdivision, unless hereafter specifically authorized by the Legislature, shall levy a tax upon the occupations now subject to the occupation taxes levied in the following Acts: Chapter 162, Acts of the Forty-third Legislature, Regular Session, 1933, as amended, which is compiled as Article 7057a, Vernon's Annotated Civil Statutes of Texas; House Bill No. 628, Chapter 269, Acts of the Forty-ninth, Legislature, as amended, which is compiled as Article 7047b, Vernon's Annotated Civil Statutes of Texas; Article III of House Bill Number 8, Chapter 184, Acts of the Forty-seventh Legislature, 1941, as amended, which is compiled as Subdivision 40b of Article 7047, Vernon's Annotated Civil Statutes of Texas.

Sec. 14.03. Severability.

If any provision of this Act, or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Sec. 14.04. Appropriations Required for Administration Expense.

Whenever any allocation is made by

this Act for administration to the collection agency of the State collecting a particular tax, such allocation shall be subject to appropriation by the Legislature; and only that portion of the allocated administration funds appropriated by the Legislature shall be set aside for such administration. Any funds allocated to administration, but not appropriated, shall be credited to the fund to which the revenue was originally allocated herein.

For the biennium ending August 31, 1961, so much of the proceeds of the funds allocated for administration and enforcement by Articles VI and X of this Act as may be needed for the administration and enforcement of the provisions of this Act are hereby appropriated to the Comptroller of Public Accounts for such administration and enforcement, provided, however, that such appropriation shall not exceed Two Hundred Thousand Dollars (\$200,000) for the biennium ending August 31, 1961. The Comptroller of Public Accounts is hereby authorized to transfer such sums as may be needed, within the limits herein prescribed to the Comptroller's Operating Fund.

Sec. 14.05. Repealer.

Subsections (b), (c), (d) and (h) of Section 1 and Section 14 of Article XVII, Chapter, 184, Acts of the Forty-seventh Legislature, Regular Session, 1941, as amended, compiled respectively as Subsections (b), (c), (d) and (h) of Article 7065b-1 and as Article 7065b-14 of Vernon's Annotated Civil Statutes of Texas, and all laws or parts of laws in conflict herewith, in so far as such conflict exists, are hereby in all things expressly repealed. Provided, however, that all taxes due or accruing by user-dealers on or before the 25th day of the month next succeeding the month in which this Act becomes effective, as provided by the above-cited Act, and all bonds furnished to this State to guarantee the payment of such taxes, shall be and remain valid and legal obligations to this State.

Provided further, that all taxes, penalties and interest due or accruing under the provisions of any pre-existing special fuels tax law prior to the effective date of this Act, shall be and remain valid and legal obligations due the State of Texas, and all liens and other obligations created and all bonds executed to secure their payment under the provisions of any such repealed laws are hereby de-

clared to be and shall remain in full force and effect; and no offense committed and no fine, forfeiture or penalty incurred under such above repealed provisions of law before the effective date of this Act, shall be affected by such repealed laws, but the punishment of such offense and the recovery of such fine, forfeiture and penalty shall take place as if the laws repealed had remained in full force and effect.

Sec. 14.06. Emergency. The pressing necessity for additional revenue for the State creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and said Rule is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted.

The Conference Committee Report was read.

Pending discussion by Senator Hardeman of the Conference Committee Report, Senator Herring moved the previous question on the adoption of the Conference Committee Report and the motion was duly seconded.

Question—Shall the previous question now be ordered?

The previous question was ordered by the following vote:

Yeas—19

Baker	Martin
Colson	Moffett
Crump	Owen
Dies	Phillips
Fly	Ratliff
Hardeman	Reagan
Hazlewood	Roberts
Herring	Smith
Hudson	Weinert
Lane	

Nays—12

Aikin	Moore
Bradshaw	Parkhouse
Fuller	Rogers
Gonzalez	Secrest
Kazen	Willis
Krueger	Wood

Question on adoption of the Conference Committee Report on H. B. No. 7, yeas and nays were demanded.

The Conference Committee Report on H. B. No. 7 was adopted by the following vote:

Yeas—19

Baker	Moffett
Colson	Owen
Dies	Phillips
Fly	Ratliff
Hardeman	Reagan
Hazlewood	Roberts
Herring	Secrest
Hudson	Smith
Lane	Weinert
Martin	

Nays—12

Aikin	Krueger
Bradshaw	Moore
Crump	Parkhouse
Fuller	Rogers
Gonzalez	Willis
Kazen	Wood

At Ease

The President announced at 10:40 o'clock p.m. that the Senate would stand At Ease Subject to the Call of the Chair.

In Legislative Session

The President called the Senate to order as in Legislative Session at 11:07 o'clock p.m. today.

Message from the House

Hall of the House of Representatives
Austin, Texas,
June 16, 1959.

Hon. Ben Ramsey, President of the Senate:

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H. B. No. 58, An Act to fix and make certain the amounts of compensation to be paid District Judges from County Funds by counties which now have, or may hereafter have, a population of six hundred thousand (600,000) or more, according to the last preceding Federal Census, and having eight (8) Civil District Courts, three (3) Criminal District Courts, and at least one (1) Court of Domestic Relations and at least one (1) Juvenile Court, providing the time and method of payment, authorizing amendment of the budget, providing for the compensation of substitute Judges; and declaring an emergency.

Respectfully submitted,

DOROTHY HALLMAN,
Chief Clerk, House of Representatives

Election of President Pro Tempore Ad Interim for the First Called Session of the Fifty-sixth Legislature

The President announced the election of the President Pro Tempore Ad Interim as the next order of business.

Senator Hardeman nominated Senator Secrest of Bell County as President Pro Tempore Ad Interim of the First Called Session of the Fifty-sixth Legislature.

Senator Baker seconded the nomination of Senator Secrest as President Pro Tempore Ad Interim for the First Called Session of the Fifty-sixth Legislature.

There being no further nominations, the President appointed Senators Hardeman, Baker, and Weinert as tellers to take up and count the ballots.

The ballots were taken up and counted and the President announced that Senator Secrest had received 30 votes with one present and not voting for President Pro Tempore Ad Interim of the First Called Session of the Fifty-sixth Legislature and declared him duly elected.

Senator Kazen was appointed to escort Senator Secrest to the President's Rostrum. The President administered the Constitutional Oath of Office as President Pro Tempore Ad Interim for the First Called Session of the Fifty-sixth Legislature to Senator Secrest.

The President then presented Senator Secrest to the Senate as their President Pro Tempore Ad Interim.

President Pro Tempore Secrest addressed the Senate, thanking the Members for the high honor bestowed upon him.

Committee to Notify the Governor

The President announced the appointment of the following as a Committee to notify the Governor that the Senate was ready to adjourn sine die:

Senators Baker, Aikin and Fly.

Committee to Notify the House

The President announced the appointment of the following as a com-

mittee to notify the House of Representatives that the Senate was ready to adjourn sine die.

Senators Hardeman, Weinert and Ratliff.

Governor Notified

The committee to notify the Governor that the Senate was ready to adjourn sine die appeared at the Bar of the Senate and Senator Baker for the committee reported that the committee had performed the duty assigned it.

House Notified

The committee to notify the House of Representatives that the Senate was ready to adjourn sine die appeared at the Bar of the Senate and Senator Hardeman for the committee reported that the committee had performed the duty assigned it.

(President Pro Tempore in the Chair.)

Message from the House

Hall of the House of Representatives,
Austin, Texas,
June 16, 1959.

Hon. Ben Ramsey, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

The House refused to adopt Conference Committee Report on H. B. No. 7 by vote of 23 ayes, 117 noes.

Motion to reconsider the vote by which House refused to adopt Conference Committee Report was adopted and to table the motion to reconsider prevailed by a viva voce vote.

Respectfully submitted,

DOROTHY HALLMAN,
Chief Clerk, House of Representatives

(President in the Chair.)

Bills Signed

The President signed in the presence of the Senate, after the caption had been read, the following enrolled bills:

H. B. No. 66. A bill to be entitled "An Act making a supplemental appropriation out of the Real Estate License Fund in the State Treasury

of the State of Texas to the Texas Real Estate Commission for the balance of the fiscal year ending August 31, 1959, in the sum of Five Thousand Nine Hundred Dollars (\$5,900.00); etc., and declaring an emergency."

H. B. No. 80, A bill to be entitled "An Act authorizing cities and towns of less than five thousand (5,000) population to issue negotiable bonds to provide money to purchase fire fighting equipment; enacting other provisions related to the subject; etc., and declaring an emergency."

H. B. No. 76, A bill to be entitled "An Act repealing Section 1 of Chapter 283, Acts 52nd Legislature, 1951, as amended, relating to fishing in Austin County, etc., and declaring an emergency."

H. B. No. 75, A bill to be entitled "An Act amending Section 1 of H. B. No. 320, Acts 56th Legislature, removing Austin County for their application of said Act, etc., and declaring an emergency."

H. B. No. 36. A bill to be entitled "An Act amending Section 5 of Chapter 427, Page 1138, Acts, Fifty-fourth Legislature, 1955, Regular Session (codified as Section 5 of Article 3883i, Vernon's Texas Civil Statutes) so as to increase the salary of the Criminal District Attorney of Tarrant County, Texas, etc., and declaring an emergency."

The following bills were signed subject to the provisions of Section 49A of Article III of the Constitution of the State of Texas:

S. B. No. 8, A bill to be entitled "An Act authorizing the sum of Twenty-five Thousand Dollars (\$25,000) heretofore appropriated to the Gatesville State School for Boys in item 7 of the appropriation to said school in Chapter 385, Acts of the 55th Legislature, Regular Session, 1957 to be expended by the State Youth Council for the purposes stated in item 6 of the appropriation to the Gatesville State School for Boys in Chapter 385, Acts of the 55th Legislature, Regular Session, 1957; and declaring an emergency."

H. B. No. 12, Directing payment of certain miscellaneous claims and judgments out of the sum appropriated for that purpose in the General Appropriation Bill for the Biennium September 1, 1959-August 31, 1961,

making an appropriation for and directing payment of certain miscellaneous claims and judgments out of other funds designated herein; requiring approval of claims in the manner specified in the Act before payment is made; and declaring an emergency."

Adjournment Sine Die

The President announced that the

time had arrived for final adjournment of the First Called Session of the Fifty-sixth Legislature.

Senator Colson moved that the Senate stand adjourned sine die.

The motion prevailed and the President declared the First Called Session of the Fifty-sixth Legislature adjourned sine die at 11:58 o'clock p.m.

In Memory of
Mrs. Margaret Elizabeth Wiley

Senator Baker offered the following resolution:

(Senate Resolution 114)

Whereas, On June 12, 1959, Mrs. Margaret Elizabeth Wiley died in Houston at the age of 68; and

Whereas, Mrs. Wiley was a native of Galveston, had lived in Houston, and at the time of her death was a resident of San Antonio; and

Whereas, She was a beloved Christian woman, a member of the Methodist Church; and

Whereas, She will be greatly missed by her family and others, her warm personality drawing to her a wide circle of friends and acquaintances; and

Whereas, She is survived by a daughter, Mrs. Florence W. Sprunger of Los Altos, California; a son, Lee G. Wiley of Houston; a sister, Mrs. James A. Elkins of Houston; and a brother, William Mitchell of Marshall; and

Whereas, Her life was exemplary of courage during her long and painful illness; now, therefore, be it

Resolved, That the Senate of the State of Texas wishes to recognize the worthy life of Mrs. Margaret Elizabeth Wiley and to express sympathy to her family; and be it further

Resolved, That a page in the Senate Journal be set aside as a memorial to Mrs. Margaret Elizabeth Wiley, and that copies of this Memorial Resolution be sent to her children, to her sister, and to her brother.

BAKER
LANE
GONZALEZ

The resolution was read and was adopted by a rising vote of the Senate.

In Memory of
Mrs. Frances Rountree

Senator Aikin offered the following resolution:

(Senate Resolution 117)

Whereas, Our Heavenly Father, in His infinite wisdom, saw fit to call to her eternal reward on June 18, 1958, Mrs. Frances (Fannie) Gertrude Childress Burroughs Rountree; and

Whereas, Mrs. Rountree was born January 3, 1880, the daughter of Mr. and Mrs. C. W. Childress of Terrell, Texas; and

Whereas, Mrs. Rountree's ancestors included great figures of both Texas and the nation. Her uncle, for whom Childress County was named, was an author of the Texas Declaration of Independence, and earlier ancestors fought in the Revolutionary War; and

Whereas, Mrs. Rountree was the Texas State regent of the Daughters of the American Revolution in 1927-1930 and was vice president general of the National Society of the DAR from 1930-1933 in addition to many worthwhile civic projects; and

Whereas, Mrs. Rountree was a faithful and tireless worker in her church, having been a founding member of the Holy Cross Episcopal Church in Paris and a most active communicant of Saint David's Episcopal Church in Austin; and

Whereas, Mrs. Rountree, after moving to Austin from Paris in 1934, was the admired and respected house mother of the Zeta Tau Alpha sorority, later serving as the house mother of the Pi Kappa Alpha fraternity, during which time she became known and loved as a mother, friend, counsellor and advisor to all; and

Whereas, Mrs. Rountree was appointed Senate Hostess by Lieutenant Governor Allan Shivers and during this time through her gracious, talkative, witty personality made visitors to the Capitol feel a warm welcome in the Senate Chamber; and

Whereas, It is the desire of the Senate of the State of Texas to pay tribute to the long and useful life of Mrs. J. T. (Fannie) Rountree, and to extend its deepest sympathy to her family; now, therefore, be it

Resolved, by the Senate of the First Called Session of the 56th Legislature, That we express appreciation for her valuable life and mourn her loss, and that when the Senate adjourns today it do so out of respect and honor to the memory of Mrs. Rountree; and be it further

Resolved, That copies of this resolution be furnished to her son, Asa Burroughs, for distribution to the surviving members of her family.

AIKIN

Signed—Ben Ramsey, Lieutenant Governor; Baker, Bradshaw, Colson, Crump, Dies, Fly, Fuller, Gonzalez, Hardeman, Hazlewood, Herring, Hudson, Kazen, Krueger, Lane, Martin, Moffett, Moore, Owen, Parkhouse, Phillips, Ratliff, Reagan, Roberts, Rogers, Secrest, Smith, Weinert, Willis, Wood.

The resolution was read.

On motion of Senator Moffett and by unanimous consent the names of the Lieutenant Governor and the Senators were added to the resolution as signers thereof.

The resolution was then adopted by a rising vote of the Senate.